REPORT

on a

Study
of
Obscene & Indecent Literature

J. W. Mohr, Ph.D.

Mr. W. R. Cowan, Q.C.,
Deputy Attorney General,
Chairman of the Committee on Obscene and Indecent
Literature.

Dear Sir:

The Report presented is the outcome of research on the topic under consideration by your committee. It is my considered hope that it will help to clarify the issue, and have provided a basis for any action you may consider.

Research for this report has been done continuously since September, 1957 and you and your committee have been kept informed on its progress. I would like to thank you for the considerable help you have given me and I would also like to thank the committee for their numerous suggestions. Without these it would have been almost impossible to cope in any manner with extremely complex problem.

I am indebted also to the Ontario Federation of Home and School Associations for their assistance in distributing the 4,500 questionnaires to their member associations.

All of which is respectfully submitted.

J.M. Kerr, Ph.D.,
Research Consultant.

Kerr's (Mrs. Ann)

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April 18th, 1958.

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1. INTRODUCTION

This report is primarily intended to provide information to the Committee on Obscene and Indecent Literature under the auspices of the Attorney General's Department of the Province of Ontario. It shall therefore contain as much direct evidence as possible to enable the members of the committee to formulate their own positions.

The problem of obscenity and indecency is not only a contemporary one but has a long history and it is not restricted to Ontario or Canada either. The problem of obscene and indecent literature, as expressed in laws, moral codes, censorship bodies, etc., has also been with us for a long time. Every society has to have its own values and standards to exist and by the same token infractions of these values and standards will occur. Furthermore, these values and standards are constantly changing, which implies to us that we cannot look for a definite answer which will solve this problem once and for all. We will rather have to look for an answer in a workable plan which can adapt itself to change.

The report does not consider the history of obscene and indecent literature since it is focussed on the present position. Anyone interested will find good accounts of historical developments in Norman St. John-Stevas' "Obscenity and the Law"[1] and in Anne Lyon Haight's "Banned Books"[2].

It was originally intended only to present a study done on the Ontario scene, (Chapter V) however, we found that without the general considerations which will be given in this report this study would have been isolated and of considerably less

bscenity and the Law by Norman St.John-Stevas, Secker & Warburg, London, 1946

anned Books by Anne Lyon Haight, R.R.Bowker Co. New York, 1955.

value. For this reason the report is presented now in two parts. The first one will attempt to analyze the impact of obscene and indecent literature on the human mind in terms of its psychosocial well being and the impact on society as a whole in terms of social norms and the question of moral behaviour.

The second part then will attempt to analyze the specifics of this problem on the Canadian scene, with the focus on our study of the concerns in Ontario. It will further analyze the industry and will close with recommendations.

Great care was taken to keep the report on an objective level and to recognize emotions and intellectual rationalizations, which are abundant in this topic, for what they are. It has been a slow and painstaking process to isolate the important issues and to present them in a way conducive to appropriate action.

II. THE PSYCHOSOCIAL EFFECT OF SEX AND CRIME LITERATURE

The predominant theme in public opinion, books and legal documents concerned with obscenity and violence, is their corrupting effect on the reader, particularly on children. It is alleged or at least implied that this material leads to delinquency and crime, misconduct and sexual perversion. Professional opinions and studies on this topic, however, vary widely.

The evidence presented here is in no way full or conclusive. It should only acquaint the reader with the variety of opinions, the information and thinking they are based on. The evidence can be grouped into three classes:

(a) Negating the relationship between reading material and corruption.

(b) Acknowledging only certain classified relationships.

(c) Recognizing fully the corruptive influence.

Let us consider first some excepts of replies made by members of the Medical Correctional Association and the Academy of Forensic Sciences in answer to requests sent by the U.S. Senate Sub-committee to Investigate Juvenile Delinquency. The sub-committee asked for statements regarding opinions based on work with delinquents, as to the degree of influence that crime, violence, sadism, and illicit sex in mass media have on the behaviour patterns of American youth.

(a) D.E.Alcorn of Victoria, British Columbia states:

> "I have collected the material faithfully for some time but have yet to find a case who took any of his ideas for crime out of this collection or for that matter out of any crime magazine, with one exception . . . In short, so far as my experience

in our own Victoria goes, I have found no clear-cut evidence of any positive association between any particular type of literature or movies and delinquency . . . In contrast to this, I certainly found a fairly high correlation with broken homes, rejection by the parents, conflict of cultural patterns. . . " 1

George M. Lott, M.D., Psychiatrist, University of Penns.

"In 25 years of practice, which includes 10 years majoring in juvenile and adult court work, I have never been able to pin down a definite major fundamental causal influence between crime, violence, etc., as depicted in movies, cartoons, books, or T.V. and the offensive behaviour encountered in delinquency. This is not to say there is no such connection but to point up the fact that we may be being misled and distracted from the more important causal or preventive factors."[2]

(b) Edmund Bergler, M.D., New York

"I believe that criminosis - of which delinquency is a part - results from neurotic elaboration of unconscious conflicts stemming from earliest childhood. It therefore follows that all later influences, such as motion pictures, television shows, reading matter, can act only as catalysts bringing to the fore what has already been formed. On the other hand, one cannot fully absolve the mass media of responsibility. Oversensationalism, undue stress on cruelty, and ignorance of the true interconnections are damaging to a certain extent."[3]

Edward Podolsky, M.D., Brooklyn, NY.

"It has been my experience that presenting crime, violence, sadism, and illicit sex in an attractive and adventurous form in the mass media of the movies, television, radio fiction, and the comics has a very definite and decided effect in quite a few cases of initiating and sustaining a social and criminal activity in juveniles and adolescents - -
It is my opinion that some degree of control should be exercised over these media in an attempt to curb delinquent behaviour." [4]

1. Legislative Council report to the Colorado General Assembly, Comic Books, Research Publication No. 19, November 1956, page 23.
2. Ibid, page 24.
3. Ibid, p.23.
4. Ibid, p.24.

(c) Frederick Wertham, M.D.,[1] in his studies clearly indicates that there exists an alarming relationship between sex and crime literature and the thinking and social behaviour of children and adults.

Dr. Benjamin Karpman, Chief Psychotherapist at St. Elizabeths Hospital in Washington, D.C., testified before the sub-committee to Investigate Juvenile Delinquency:

> "you can take a perfectly healthy boy or girl and by exposing them to abnormalities you can virtually crystallize and settle their habits for the rest of their lives. If they are not exposed to that they may develop to perfectly healthy, normal citizens. It is here that objections come upon pornographic literature".[2]

This should suffice to show the diversity of professional opinions. We may add that some go even so far as to say that if a certain amount of sex and violence is banned entirely the results may be the opposite of what we expect. The thinking of this school is that the portrayal of sex and crime in any mass media affords an opportunity to release feelings of hostility of various kinds. . . . "emotionally healthy children can readily assimilate mass media portrayals of crime and render them innocuous . . . . if gratification in fantasy is withdrawn the need may find resolution in disguise and disengenious forms less desirable socially."[3]

1. Seduction of the Innocent, Fredric Wertham,M.D., Rinehart & Co. Inc., New York, 1954.
2. Interim Report of the Committee on the Judiciary made by its Subcommittee to investigate Juvenile Delinquency, June 28, 1956, p.12.
3. Colorado Report, p.25.

We should insert here that it will have to be kept in mind that this evidence refers mainly to the U.S. scene and that we have found no evidence in Canada of the more pronounced forms of pornography present in the United States, especially pornography catering to known forms of sexual perversion. Unfortunately most of the evidence does not distinguish between obscenity and indecency as expressed by the portrayal of a socially unaccepted amount of sex information concerning normal sex relations and pornography dealing with all kinds of sexual deviations. Whereas the first one may be insulting to our socio-moral feelings, it cannot be considered as dangerous in a pshychological sense. The latter is certainly harmful if we at all concede that written material is capable of influencing human behaviour.

The present position of our knowledge in regard to the psycho-social impact of reading material is summed up in The Freedom to Read:

> There is little methodical and objective knowledge of the psychological effects upon those variously exposed to six major media of mass communication: books, magazines, movies, newspapers, radio and television. Among all these, however, it appears that least is known about the effects of book-reading. . . But intensive studies of the psychological effects of books upon their readers are almost entirely absent, except for a few studies of the reading of comic books by children.
>
> In large part, this conspicuous absence of research on the effects of books results from the practical difficulties of developing suitable methods for assessing the psychological effects of the typically prolonged and intermittent experience of reading a book.[1]

The authors of this book suggest that a comprehensive document should be worked out which would bring together systematically

1. The Freedom to Read by Richard McKeon, Robert K. Merton and Walter Gellhorn. R.R. Bowker Company, New York, 1957.

the available knowledge from the fields of psychology, social psychology and sociology.

On top of that they suggest further intensive studies of responses to other books which no one has suggested as pornographic for it may be that "readers who do perceive pornography in these allegedly objectionable books also search out much the same meanings and implications in seemingly innocuous books".[1] It is their contention that:

> "From all indications, the studies may well find such self-selective and motivated tendencies for perception among those readers who are at all vulnerable to books as stimulants to anti-social attitudes and behaviour. To provide a thoroughly antiseptic environment for such people would require measures to exclude them from the world of books altogether, a step which has yet to be advocated by any contemporary censor."[2]

1. Ibid p.75.
2. Ibid p.75.

III. SOCIAL NORMS AND THE QUESTION OF MORAL BEHAVIOUR

Although the concerns stated in the last chapter are most often given as concerns in regard to obscene and indecent literature it seems that another motivating force is much more important, though more implicit, i.e. obscenity and indecency offending public feelings in regard to social norms and accepted behaviour.

Every society has what anthropologists call a cultural configuration. This means it has values and beliefs, and resulting from that norms and institutions which manifest and express those values and beliefs. This differs from society to society and also in one given society from time to time. Even different strata in one and the same society will show certain variations of the common trend. It is therefore impossible, as we have expressed before, to give a definition of obscenity and indecency which is universally applicable. On the other hand, however, every society has to decide how it will deal with infringements and violations of its moral and social standards.

In our society, which cherishes the freedom of the individual, two fundamental values come into play in regard to the problem in question. On the one hand there is the value that every individual should have the optimum of freedom, and freedom if it means anything, certainly means the freedom to choose. On the other hand, certain norms and standards are necessary which, by their very nature, will have to limit the freedom of choice. Our problem therefore basically raises the question how we can uphold this individual freedom and, at the same time, secure the moral norms for the society as a whole. This is further complicated since we allocate these values in different measures to children and to adults.

For children it is of extreme importance that social norms of right and wrong are secure and well established to enable them to identify with the society they are growing into. Wertham expresses this in the following way:

> "Gardening consists largely in protecting plants from blight and weeds, and the same is true of attending to the growth of children. If a plant fails to grow properly because attacked by a pest, only a poor gardener would look for the cause in that plant alone. The good gardener will think immediately in terms of general precaution and spray the whole field. But with children we act like the bad gardener. We often fail to carry out elementary preventive measures, and we look for the causes in the individual child. . . . "The question is, Can we help the plant without attending to the garden?" [1]

This picture suggests that we have to protect our children from unsavoury influences. The question now arises how this can be done to all practical purposes without limiting the freedom for adults to choose between the "savoury" and the "unsavoury".

In a testimony to the Senate Committee on the Sale and Distribution of Indecent and Salacious Literature, Mr. D. J. Michael, Executive Secretary of the Public Relations Committee of the Seventh Day Adventist Church, formulates this problem very sharply:

> "In noting some of the suggestions which have been placed before you for your consideration, it has been felt that some of the proposals recommended measures that might, if enacted into law, prove a clear threat to freedom. Some, in our opinion, savoured of the thought-control, police-state climate which after all is so repugnant to our free way of life. While we whole-heartedly deplore the free publication and distribution of literature which is unquestionably obscene, we suggest that care must be exercised to prevent the creation of a monster to deal with a problem that actually affects a relatively small segment of the total population. For, as we see it, the danger lies that this monster which we might create with every good intention could some day turn savagely on the lifeblood of all our freedoms." [2]

1. Frederic Wertham, M.D., Seduction of the Innocent, p.2.
2. Proceedings of the Special Committee on Sale and Distribution of Salacious and Indecent Literature. The Senate of Canada 1952-53, No. 1, p.13.

Asked by the committee if his church had taken any steps in the matter of stopping sales of indecent literature he states:

> "We have not made any official representation to distributors in particular localities. We have rather hesitated to take an attitude which might be interpreted that we were acting as conscience for other people. What we have done, though, and what we feel is a worthy avenue to pursue, is, we have conducted quite an extensive educational program among the youth and adults of our own constituency." [1]

Another witness testifying to the same committee, Mr. R. W. Keyserlingk, B.A., Editor and Publisher of the Ensign, a national publication published in Montreal, points out the other side of the problem.

> "Hon. Mr. McDonald: I suppose, Mr. Chairman, there would be a hue and cry from a great number of the press that we were curtailing freedom of the press?
>
> Mr. Keyserlingk: I think that there is bound to be some. But I think that there is the necessity to definitely counter a certain trend which has been popularized either through loose thinking or else by interested parties trying to have licence hide under the guise of freedom. After all, the individual has had to come up against a number of other activities designated as crimes which, in each case, have in that sense been a repression of "freedom". The proprietory right that is being defended by "restraint" does not give freedom to an individual to take another person's property."[2]

Both these statements, which are only seemingly contradictory, refer to one and the same thing. The differences occur on the basis of the two values we have expressed before, namely, freedom and protection. The question arises now what forces are there to protect society and which institution in society is responsible for a certain kind of protection. Our next chapter will deal with just this question.

Before we go on, a third aspect has to be taken into consideration. It has been noted frequently that covers of pocket books as well as magazines are often far more obscene or at least suggestive

1. Ibid. pp.13-14.
2. Ibid. No. 2 p.67.

than the contents. Even classics appear in this way. This raises an important question. If the publisher would put on the market an obscene book with a decent cover, one could charge him with deceiving the public by corrupting the innocent purchaser. Since the opposite is the case, which almost means that in some cases the publisher is luring the public to read decent books, we have to ask ourselves if this does not indicate a malady in the social structure as such. This would further mean that obscenity, and the same is true for violence, is only a symptom and not a cause, as portrayed in the pertinent reading material. If this is true, and we feel that there are reasons to assume that, then any measure of control would only try to suppress the symptoms and would leave the real causes untouched.

It will be therefore one of our recommendations that this matter be referred to an institution like the Canada Council with a suggestion that a study be made of the reading habits of the Canadian Public. This should be done with the aim of gaining information for a positive approach to the question of obscene and indecent literature.

IV. SOCIAL CONTROLS

Every society adopts certain measures to keep its social structure functioning. In regard to threats of corruption of morals by obscene and indecent literature, certain measures of control may be adopted. In this chapter the major controls will be outlined in a general way in order to get some indication of their merits and demerits, their effectiveness and their limitations, their benefits and their dangers. In considering this we have to keep in mind the considerations given in the previous chapter, namely, that freedom of the individual and protection for the social structure are two values which by necessity limit each other to a certain extent. The question therefore is not do we want control or not but, what kind of controls are we prepared to accept.

1. The Law

It would go far beyond the limits of this study to give a detailed account of the legal provisions existant and possible in regard to our problem. All we want to do here is to point out some of the main features which fortunately in their general aspects are rather similar in different countries and also at different times. Specific information on the existing laws in Canada will appear in a different chapter.[1]

Continued on pg 52. The law in Canada

From all that has been said it is rather obvious that 'obscenity' is extremely difficult to define. The court, however, in order to find a publication obscene is bound to do just that. For almost a hundred years now a decision laid down by Chief Justice Cockburn of Great Britain in the Hicklin case has

1. Chapter VI, pp.52-57.

been the corner stone for testing obs enity. His definition reads:

> "I think the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall".

It is obvious that this definition - as any other would - is open to individual interpretation. Viscount Lambton, in his motion for a second reading of the 'Obscene Publications Bill' in the English House of Commons points out the weaknesses of the Hicklin test in the following way:

> "One learned judge has taken it to mean one thing and one another. I do not wish to go so far as to say that this definition is in any way ridiculous. There is much in it which is comprehensible and, indeed, sound; but its weakness lies in the number of meanings which can be read into it. I do not wish to say that, as a result of it, during the last ninety years literature has had to set its standard by what is or what is not suitable for a child. But every now and again there have been most glaring exceptions to the rule of tolerance which has prevailed." [13]

In another famous decision which Justice Stable handed down in the 'Philanderer Case' the difficulty to devise a test which would be valid for both children and adults becomes clear. He asked the rhetorical question "Are we to take our literary standard as being the level of something that is suitable for a 14 year old school girl? Or do we go even further back than that, and are we to be reduced to the sort of books one reads as a child in the nursery?" He answered it simply with "Of course not".

Another criticism of the Hicklin rule on obscenity appears in a judgment by Judge Learned Hand in United States vs. Mitchell Kennelly in 1913.

1. Hansard, House of Commons Official Report, Volume 567, No.83, London, Her Majesty's Stationery Office. col. 1494.

> "I hope it is not improper for me to say that the rule as laid down, however consonant it may be with mid-Victorian morals, (Cockburn opinion) does not seem to me to answer to the understanding and morality of the present time - - I question whether in the end men will regard that as obscene which is honestly relevant to the adequate expression of innocent ideas, and whether they will not believe that truth and beauty are too precious to society at large to be mutilated in the interests of those most likely to pervert them to base uses. Indeed, it seems hardly likely that we are even today so lukewarm in our interest in letters or serious discussion as to be content to reduce our treatment of sex to the standard of a child's library in the supposed interest of a salacious few, or that shame will for long prevent us from adequate portrayal of some of the most serious and beautiful sides of human nature. . . " [14]

Recently the United States Supreme Court made another attempt to revise the test for obscenity. "Whether to the average person applying contemporary standards the dominant theme of the material taken as a whole appeals to prurient interests". Again of course, the construct "average person" can be questioned. However, this is not the only law which takes recourse to such a construct. It is important to note that by the phrase 'the material taken as a whole' it is clarified that certain passages of a publication are not enough evidence but that the publication as a whole has to be judged. This is one of the weaknesses in the Hicklin test which does not take into consideration any notion of intent. Already in 1934 Judge H and in the United States Appeal Court said: "We believe that the proper test of whether a book is obscene is in its dominant effect. In applying this test the relevancy of the objectionable parts to the theme, the established reputation of the work in the estimation of approved critics, if the book is modern, and the verdict of the past, if it is ancient, are persuasive pieces of evidence: for works of art are not likely to sustain a high

1. Banned Books by Ann Lyon Haight p.144.

position with no better warrant for their existence than obscene content."

A bill[1] which went through the second reading in the British House of Commons last year takes all this into consideration. In regard to the definition of obscenity it gives the following criteria.

> "Any such matter shall be deemed to be obscene for the purposes of this Act, the Obscene Publications Act, 1957, or any other enactment, if
>
> (a) its dominant effect is such as to be reasonably likely to deprave and corrupt persons to or among whom it was intended, to be distributed, circulated, or offered for sale, or
>
> (b) whether or not related to any sexual context, it unduly exploits horror, cruelty, or violence, whether pictorially or otherwise:
>
> Provided that in deciding whether such matter is or is not obscene the court may receive expert evidence as to the literary or artistic merit, or the medical, legal, political, religious, or scientific character or importance of the said matter."[2]

In regard to this study, however, it must be said that these points of law are primarily focussed towards books. In regard to magazines, comics, etc., their value is diminished by reasons which are outside the law. These publications are of a passing value anyway and therefore a ban is of little interest. In the case of pocket books with the amount of titles that we face today legal bans are also of little value, and many would be found to lie on the marginal level as far as obscenity is concerned as well as the literary value. Many of them would even benefit by legal procedures since they would get a publicity which they would otherwise never receive and it is not unlikely for some of them that in this way more copies

2. A Bill to Amend and consolidate the law relating to obscene publications, 1957.

would be sold than would have been the case otherwise. The fine imposed by the law would in many cases not hit the publisher anyway but rather the distributor or the retailer. Therefore the publisher has little to lose by prosecutions. In the United States where every state has its own laws some publishers make it a practice to have a book banned in one state and use this as an advertisement for the sale of their book in other states.

We also have to consider the advance in printing technology. Due to rapid and cheap modern printing devices it is quite easy to devise another publication in place of one which is banned. In this state of affairs it seems that administrative process of preventative justice could serve the purpose more adequately, by providing a channel of communication between public feelings and the industry using the courts only where no agreement can be reached.

2. The Question of Censorship

To clarify what censorship means the following definition and description should prove helpful:

> "The term "censorship" has generally been used in two closely related senses. In its original and strict sense, censorship is the prohibition and prevention of statement, expression, and communication. "Censors" originally prepared the "census", and both terms are derived from censere, "to value or to tax". The censors of ancient Rome were magistrates who not only took a register of the number and property of citizens, but also exercised the office of inspectors of morals and conduct. In modern times the title has been applied to officials empowered to examine written or printed matter - manuscripts of books and plays, news dispatches, foreign newspapers or magazines, and other forms of expression and communication - and to forbid publication, circulation, or representation of anything objectionable.

> "Censorship" is also used, in a large and popular sense, to include exercise of police power and agitation of private groups to ban the circulation of particular works or works of a particular kind, or to limit their accessibility, or to expunge portions of them. The mark of censorship, in this broader sense, is a privation or restriction after publication or production - the prohibition of sale or distribution by the authorities of a particular locality; the limitation of circulation in the mails or restriction from entry into the country by Post Office or Customs Officials; the withdrawal from circulation, restriction, or labelling in public libraries; the use of persuasion, pressure, or threats to induce publishers, producers, and distributors to withdraw a work; or bans voluntarily accepted by members of particular groups or churches."[1]

This is an excellent summary of control measures which may be regarded as censorship. Again we face the same question which we have discussed in the previous chapter.[2] There seems to be general agreement among most people that censorship should be avoided in a free society as far as possible. The long and varied history of censorship does, however, indicate that it is not always possible. The historical accounts of censorship usually only take into consideration the value of the books which were banned and do not discuss the millions of publications which were simply pornographic. This, therefore, gives a weighted picture.

The demarcation line between the possibility of excluding censorship entirely and the necessity for it seems to be the same demarcation line that exists between freedom and licentiousness. Naturally, this line is not a fixed one but has to be redefined again and again. However, it would be futile to assume that licentiousness does not exist and that society does not need any protection from it. The question therefore again presents iteself in the formulation: What kind of censorship are we prepared to accept, and not: Do we want censorship or not.

1. The Freedom to Read p.XII.
2. pp.8-11.

Ignore all of this

For our purposes it will suffice to discuss three forms of censorship:

(a) Quasi Judicial Bodies

(b) Censorship Boards

(c) Review Boards

(a) The Post Office

One of the important rights of a citizen is to have his mail treated confidentially. On the other hand, since the post office is involved in the transportation of matter from one locality to the other one, without knowing its contents it has to be protected from misuse. If the post office is used consistently as a means of disseminating obscene material, which actually means that it partakes in an illegal process it must also have the means to avoid this.

The mail is divided into three categories - 1, 2 and 3. If there is any suspicion concerning objectionable material contained in Class 1 mail (denoting private letters) the recipient has to be called to the post office and he is requested to open his mail in the presence of officials. If he refuses to do this the letter is returned to the sender marked "undeliverable". The same is true for the categories 2 and 3 except in cases of imports where the goods are referred to the Customs division for examination and treatment.

Nobody would question the right of the post office to use censorship in this way.

Customs

Since the customs are entrusted with the task of controlling imports as well as exports they will also have a function in the decision whether obscene or indecent literature should be allowed to enter the country or not.

In the case of Canada most of the printed material comes from the United States. We are therefore faced with the question whether censorship should be exercised at the ports of entry or not. If not, then we are faced with the possibility that the country is flooded with pornography before court action can be taken. This issue will be followed up together with a detailed discussion of the present provisions in Canada.[1]

(b) Censorship Boards

For the purposes of this study a distinction will be made between Censorship Boards and Review Boards. The first is defined as a body which is empowered to ban any material which it considers as obscene or indecent and has powers to enforce its ban. The second is a body acting in an advisory capacity. According to Norman St. John-Stevas the Irish Censorship Board is the only one amongst the English speaking countries with the exception of Queensland where a Censorship Board was established in 1954. Since 1928 the Irish Board has banned about 4,000 books and nearly 400 periodicals. "In the list of banned books titles like 'Hot Dames on Cold Slabs' and 'Gun Moll for Hire' are found side by side with Proust's 'Remembrance of Things Past' and Andre Gide's 'If It Die'. . . . Irishmen may not read

1. See pp. 54-57

Charles Morgan's 'The Fountain', Somerset Maugham's 'The Painted Veil', Aldous Huxley's 'Point Counterpoint', or George Orwell's '1984'."[1]

There is no doubt that a censorship board with powers of banning books like the ones quoted, would be unacceptable to the majority of the Canadian public. In this light a quotation we have cited earlier in which Mr. D. J. Michael expresses his reservations to the Senate Committee becomes meaningful.[2]

(c) Review Boards

A review board for the purposes of this study is an advisory body appointed by either the government, the industry or private organizations.

Since a review board deals with advice and not with the ban of publications it is a far more acceptable institution than a censorship board. A review board appointed by a government has the advantage of being open to public scrutiny and if it does as it should, include representatives from various public groups and the industry, the chances of a reasonable control are good.

A review board appointed by the industry represents the ideal solution for some kinds of publications. A good example is the "Comic Code Authority" in the United States. Although previous attempts by the comic book industry there have failed,

1. Obscenity and the Law. p.183

2. See p.9.

the Comic Code Authority which has been in operation since October 1954 has worked out extremely well. There is no doubt that the comic book situation has improved radically since that time and there are no indications that the Code under the able leadership of Judge Murphy, Comic Code Administrator, has been deteriorating, and it is hoped that his successor, Mrs. Trulock will maintain this standard. There is no doubt that the philosophy of this body is very recommendable.

> "Besides establishing standards higher and more stringent than any type of restrictive legislation could legally enact under the constitutional guarantees of a free press (a matter discussed further on in this booklet), self-regulation, because it constitutes the voluntary acceptance of responsibility by industry members for the mutual benefit of both the public and themselves, brings about willing co-operation rather than the reluctant and frequently inadequate "compliance" given to coercive laws. As such, self-regulation is more effective and thorough, and is certainly more in accord with the American way.[1]

As far as the magazine and pocket book industry is concerned, and those seem to be the major problem at present, this would be an extremely difficult task because of the number and diversity of publications. Besides, most of the publishers are in the United States and therefore such a task would have to be accomplished there.

Review Boards established by private organizations contain the inherent danger that one group of people with its own standards and beliefs sets out to censor the literature which also concerns other groups with different standards. John Fisher in an editorial in Harper's Magazine points

1. Facts about the Comics Code, Comics Magazine Association of America. p.13.

out the negative side in speaking of NODL (National Organization for Decent Literature)

> "Even the members of this organization probably do not recognize the damage they are doing. They are well meaning people acting from deeply moral impulses. They are trying, in a misguided way, to cope with a real national problem and presumably they think of themselves as patriots and servants of the Lord. Perhaps the majority of Americans of all faiths would sympathize with the motives -- though not with the method."[1]

On the other hand, John Courtney Murray states the purposes of NODL in the following way:

> "A general conclusion on the basis of its own statements about itself would be that NODL looks to voluntary reform through co-operation between parents and merchants in an area where a special problem of public morality exists. That problem arises out of the ready accessibility to boys and girls of the rather immense amount of cheap literature that is objectionable on common sense grounds of morality and taste."[2]

Summarizing, we can say that any group has the right to establish its own standard. However, it has no right to assume that this standard is universal and that they can therefore extend it to other groups and enforce it. The kind of action described in the second quotation is commendable but as the first quotation shows persuasion can easily become coercion.

3. <u>Pressure Groups and Individual Responsibility</u>

Discussing review boards established by organizations we have already touched on the question of pressure groups. The use of pressure or any other means of coercion is of course questionable in the hand of any unauthorized group and basically illegal.

1. Harper's Magazine, October, 1956.
2. America. Nov. 3rd, 1956.

At the same time, however, we must consider that the citizen has a right and in some ways even an obligation to protest against anything which he feels infringes on his moral feelings and to assume that the only protest a citizen or a group of citizens can make is the legal one, is of course absurd. If one neighbour keeps his back yard in a condition which is offensive to the man next door it is only appropriate that this man will try to make his neighbour aware of the condition and of his own feelings about it. The same of course is valid, if one shops in a store and is appalled by any kind of obscene layout. If a group of citizens combine their efforts to bring about a greater awareness of a condition which in their opinion is detrimental to society as a whole then they have to be free to express this. They also perform a service if they clarify an issue by reporting a given condition to persons and institutions which are in a position to effect a change. Only if a group uses an issue as a scapegoat and acts on purely emotional grounds, losing any sense of proportion, then the results can only be negative, if not dangerous.

There can be no definite answer since the line of responsibilities and rights on the one hand and tolerance and the recognition of the rights and privileges of others, on the other hand, is a complex one. However, this is part and parcel of the dynamic way in which we experience life in a democracy and room should therefore be provided on both sides. Extreme individualism is just as dangerous as mass hysteria and it would not be difficult to prove that the former precedes the latter. In spite of all these difficulties it would be unhealthy to assume that governmental regulations would be the panacea.

4. The Positive Note

We must not lose sight of the fact that all the measures we have discussed up to now are basically negativistic. Although there is a reason for negating offensive literature there is also importance in the opinion that the best action against offensive reading material is to produce better literature. In the course of our study on the concerns in Ontario a number of people expressed this opinion. One of them reads:

> "In this township we have made it our business to saturate our children with a wide selection of books recommended by Children's Division of the Toronto Public Library. Hundreds of Ontario Schools lack such Library Service and I would feel research had a constructive outlet by following this direction."

In studying the literature on obscenity and indecency one finds almost a complete absence of positive suggestions. During the second part of this study and especially in the recommendations a proper place should be given to ideas denoting a positive approach.

PART TWO

CHAPTER V

ONTARIO: A STUDY OF PUBLIC CONCERN

During the month of February, 1956, the Attorney General of this Province received numerous letters containing complaints about the display and sale of obscene and indecent publications on the newsstands and in the stores of Ontario.

On February 24th of the same year a delegation representing various civic and religious groups presented a brief to the Attorney General concerning the same problem.[1] The brief stated the serious concern of the organizations which endorsed it. It recognizes that the problem is an involved one. It urges that "over the months there has developed a widespread conviction that something should and must be done to meet and overcome the menace of obscene and indecent publications". They recommend that censorship is not a solution since freedom of speech must be maintained. Their suggestions are:

(a) Section 150 of the Criminal Code be used more intensely.

(b) A workable definition of the term obscene be obtained.

(c) A review board be set up.

The brief ends with a positive note, stating that "good legislation, desirable and necessary as it is, cannot of itself adequately meet the situation." The organizations concerned recognized their own obligations in meeting this problem and they "pledge themselves to renewed effort, by precept and example, to improve the moral tone of this province".

1. Appendix I.

The Honourable A. Kelso Roberts, Q.C., Attorney General, presented this problem to the Legislative Assembly of the Province on February 29th.[1] In this presentation he not only considers the problem but also legal and other controls already in effect. He ends with the hope that the legal provisions "joined with the efforts of an educative and guiding nature by organizations such as I have mentioned, and by the main body of publishers, should make great strides in closing the gap in this troublesome and moral-upsetting problem.

This government, I am sure, will do its best with this sort of co-operation to bring about a fair and lasting result".

Following this presentation a committee was formed under the Chairmanship of Mr. W. B. Common, Q.C., to consider all aspects of salacious literature in the province of Ontario. Recognizing the complexity of the problem the committee desired a research project on this topic which led to the present study.

1. LETTERS REFERRING TO INDECENT AND OBSCENE LITERATURE RECEIVED BY THE ATTORNEY GENERAL'S DEPARTMENT DURING THE YEARS 1956 - 57.

   A study of these letters (table 1) reveals the following patterns:

   From the 393 letters, 266 were received during the month of February, 1956. Most of the letters were mimeographed and were therefore distributed by various groups to their members. Many of the handwritten letters also showed a

1. Hansard, Wednesday, February 29th, 1956. pp. 634, Appendix II.

TABLE 1

Letters Referring to Indecent and Obscene Literature Received by the Attorney General's Department During the Years 1956, 1957.

Residence of Senders[1]	1956				1957			
	January to March	April to June	July to Sept.	October to December	Jan. to Mar.	April to June	July to Sept.	October to December
Barrie	3							
Belleville						6		
Cobourg						72		
Cochrane								5
Erinsville	11							
Eganville							13	
Guelph						18		
Hamilton	7							
Kirkland Lake								
Kitchener	2							
London	1	1						
Petawawa	13							
Pt. Colbourne		2	2					
Queensville	1							
St. Clemens	10							
St. Pierce	1							
Seaforth	2		1					
Stratford	2		5					
Sudbury	90							
Tamworth	1							
Tecumseh	96							
Trenton	1							
Toronto				2				
Tilbury	8							
Waterloo	14							
Windsor	3							
	266	3	8	2		96	13	5
	279					114		

TOTAL 393

1. Neighbouring communities are grouped in the case of mimiographed letters.

group effort since they were similar if not the same in content. Only about 10% of the letters were individual ones.

The contents of the letters varied from statements like "kindly destroy all obscene comics and literature" to personal expressions of deep concerns in regard to the moral danger of obscene literature, expecially in regard to children under the age of 16.

In an attempt to classify the contents of the letters the following categories were singled out:

(a) Letters requesting general legal action against obscene, indecent, salacious, lewd, filthy, etc. literature, magazines, crime comics, pocket books, etc.	app. 20%
(b) letters requesting legal prohibition of the sale of these objects to children under the age of 16	app. 40%
(c) letters requesting general action in regard to this material	app. 20%
(d) letters requesting a clean-up campaign	app. 10%
(e) letters commending the department on the consideration of the problem	app. 10%

Unfortunately no specific evidence indicating actual material considered as obscene was contained in the letters.

For this reason a study was undertaken in order to obtain information on what the public considers 'offensive literature.'

2. THE STUDY

(a) The sample

In order to obtain a representative picture in regard to concerns about indecent and obscene literature in the province as felt and defined by the public the Ontario Federation of Home and School Associations was asked to distribute a questionnaire to its member association.

One thousand five hundred Home and School Associations throughout the province presented the best sample that could have been obtained under the circumstances. Three questionnaires were sent out to the Executive of each Association and to officers of the Provincial organization. The assumption was that the Executives of these associations represented a fair cross-section of the general public with the additional sought-for weighting that they are interested in community affairs and in particular in the welfare of children.

(b) The questionnaire[1]

The questionnaire was restricted to one single page and aimed at getting concrete evidence from individuals whether or not they had seen offensive publications; where they had seen it, descriptions of the offensive material and whether or not they were available for and considered dangerous to children. The questionnaire was introduced by a letter stating the problem and the aim of the study.

1. Appendix III.

(c) Distribution

Questionnaire and covering letter were contained in a brown manilla envelope9" x 12" of the button and string type. Also enclosed was a self-addressed, stamped sticker to be used for returning the completed questionnaire plus samples of offensive publications, if any, in the same envelope. The addressograph of the Ontario Federation of Home and School Associations was used for addressing the envelopes to the member associations. Every care was taken to facilitate returns.

(d) Results

From the middle of January, 1958, the time of distribution, until the middle of April, 1958, out of 4,500 questionnaires distributed, 236 were returned. Analysis of returned questionnaires presents the following picture:

During the past year, did you see a publication (magazine, book, comic, periodical, etc.) on display, which was offensive TO YOU

Yes	72	No	164

During the past year, did you see any publication, available for and in your opinion dangerous to children:

Yes	42	No	194

Have you seen any such offensive publication in the hands of your children:

Yes	15	No	221

Places where material offensive to adults was found:

Drugstore	32
Book Store	26
News Vendor	29
Hotel	8
Grocery	6
Hairdresser	3
Cigar Store	5
Variety Store	6
Restaurant	6
Private Homes	2

Places where material considered dangerous for children was found available for them:

Drugstore	13
Book Store	3
News Vendor	5
Hotel	1
Cigar Store	2
Shopping Centre	3
Trading	1
Toy Shop	1
Private Homes	5

TABLE 2

General Categories of Literature Found Offensive to Adults:

Category	Times Mentioned
Comics	3
Sex Comics	4
Horror Comics	5
Magazines	3
Movie Type	2
True Story Type	6
Periodicals	4
Men Only Types	3

TABLE 2a

Offensive Parts of Material Listed under Table 2:

Pictures	8
Cover	25
Contents	7
Names of Articles	2
Titles	1
Advertisements	4

TABLE 3

Publications Generally mentioned as Dangerous to Children:

Category	Times Mentioned
Comics	4
Horror Comics	11
Sex Comics	3
Crime Comics	5
Pocket Books	1
Magazines	1

TABLE 3a

Offensive Parts of Material Listed Under Table 3:

Pictures	6
Cover	12
Content	1
Language	1

TABLE 4

Specific Titles Listed as Offensive to Adults:

Title	Issue	Times Mentioned	Offensive Parts
Ace	April 1958	1	articles and pictures
Adventure	Sept. 1957	1	articles and pictures
After Dark	March 1958	2	whole
All Gent		1	cover and pictures
Bold	Mar. & April 1958	1	cover
Chicks and Chuckles	May 1958	1	pictures
Confidential		5	whole
Dare		1	
Escapade		1	
Escape	June 1958	1	all articles
Flash		11	headlines, pictures, contents.
Girls and Gangs		1	pictures
Glance		2	
Hush		11	headlines, articles, all issues
Hush Hush		1	
Inside		1	pictures
Male		1	
Monsieur		3	cover & pictures
Male Point		1	
Midnight		1	
Mad	March 1958	1	pictures
Men	March 1958	1	
Men's Pictorial	Feb. 1958	1	

TABLE 4 (Cont'd)

Title	Issue	Times Mentioned	Offensive Parts
McCalls		1	pictures
New World	June 1958	1	articles and pictures
Pose		1	cover and whole mag.
Pageant		2	cover
Playboy		4	whole book
Pic		2	
Quick		1	
Rogue	March 1958	1	pictures
Sunbathing	May 1958	4	pictures
Reader's Digest		1	advertisement
Stag	July 1957	2	articles, pictures
Scene		1	
Scope		2	pictures, articles
Top Secret		1	
The Sex	April 1958	1	pictures
Tempo	April 1958	1	cover
True Adventure	Mar. 1958	1	
Valor	April 1958	1	pictures
Vue	March, May, 1958	2	cover

TABLE 5

Specific Titles Listed as Offensive to Adults:

Pocket Books	Issue	Times Mentioned	Offensive Parts
Love Off Limits	Curtis	1	
This Girl for Hire		1	Story
Passion Tide		1	
Sinful Virgin		1	cover
I'll Call Every Monday		1	cover, contents
A Night with Mr. Primrose		1	well written, sex incidents vividly described
Sensualite		1	cover, contents
Vip (Pyramid Book)		1	

TABLE 6

Specific Titles Listed as Dangerous for Children:

Magazines	Issue	Times Mentioned	Offensive Parts
Top Secret		1	
True Confession		1	pictures and contents
Secret Love		1	pictures and contents
Love and Passion		1	
T. V. Guide		1	pictures
McCalls		1	articles on marriage
Readers' Digest		1	advertisement
Confidential	Sept. 1957	1	
Newspapers			
Hush		2	
Flash		2	
Dick Tracy Comic Strip		1	
Comic			
Love	D.K.	1	

TABLE 7

Publications submitted as offensive:

Magazines	Issue	Copies Submitted
Ace	April 1958	1
Escape	June 1958	1
Man's World	June 1958 Vol 4 & 3	1
Sunbathing for Health	May 1958	2
Monsieur	October 1957	1
True Men	August 1958	1
Vue	May 1958	1
Tabloid		
Flash	June 8, 1957	1
Flash	April 12,1958	1
Pocket Books		
Ten Roads to Hell by Robert Travers	Popular Library Toronto	1
Dolls and Dues by Orrie Hitt	Beacon Book Canada	1

Table 8

Complaints (Referring to IV of the Questionnaire):

		Satisfactory Results	Unsatisfactory
To Storekeeper	3	1 satisfactory 1 partially, (offensive material placed away from children's books)	1
To Church			
To Police			
To Organization	5	3	2

(e) Excerpts from Letters received with Questionnaires Concerning Censorship

"Reading is one of my greatest pleasures and so I do much of it, but freedom to choose between the good, bad and indifferent is our prerogative as a free society. Therefore I consider any form of censorship dangerous.

Offensive Literature can be found almost anywhere by some people and I have no doubt that such zealots could employ themselves with the Bible and the Shakespeare and Chaucer volumes."

"We did not feel inclined to read the articles in these publications because even the covers and the story reports were too offensive. This is our personal reaction to these books and magazines and we do pray that they may be forced off the book shelves.

"Our better citizens are thoroughly disgusted with the type of books on the market in our town".

About Coercion of Storeowners[1]

"Our Home and School Association have taken your questionnaire into discussion and we find that no one has forced our book dealers to have any obscene literature. Our stores were checked just recently and found everything in order".

"We have investigated our drugstores and news stands here .... and find no obscene, or indecent literature. But upon further investigation we found that the usual filthy literature is sent, along with other magazines but the owners of these stores only return it to its source of shipment.

We have very conscientious store owners, they are all rearing families of their own and are just as anxious as the rest of us that this obscene literature does not get into their hands."

"I discussed with . . . . Store this subject of objectionable publications - (objectionable to my personal taste) such as 'Hush' and various magazines as 'Vue', 'Glance' etc. whose covers seem at odds with the host of other magazines offered for sale. In this store I have noticed the children's magazines, comics, Golden Books etc., are placed as far as possible away from the publications to which I have objected. I can appreciate the owner's comment that he is in business to make a living and when there is a demand for these he fills the orders. I would add that I think there are not nearly so many objectionable comics on the market now as there were a year or so ago."

1. See p.62.

"We questioned the storeowners. The co-operatives ones told us that salesman from the publishers called occasionally to see if their books were displayed in a prominent place. If the vendor did not accept the bundle delivered (and display it) they were reprimanded and in fear of being forbidden to sell any magazines".

Concerning Children

"After discussion our association agreed that although such books may be on the market, we should have our children sufficiently well trained not to buy them. As far as adult reading is concerned they do not believe in too much censorship".

"Personally I feel the more publicity given to obscene literature the more a certain element of people rush out to buy it. As far as being a menace to our young - I feel the foundation they receive at home influences their choice as they go out in life".

"I feel quite strongly on the matter, but feel it is primarily the fault of parents if children are interested in reading the trash that is apparently for sale openly".

"Comic books for younger children are not as offensive as these other magazines and books, and "news" papers".

Pocket Books

"A word about pocket books.

I believe it a fruitless task to try and censor these . . . The range is so wide that it would be a full time job for a crew of experts, literary and moral, who would doubtless disagree anyway.

Pocket book readers, in general, are past the juvenile stage where their decisions should sometimes be made for them - any damage has already been done".

About Covers[1]

"I personally think there are many paper covered books on sale, which are cheap and vulgar and a waste of time to read. The covers are very suggestive, sometimes more so than the book really is".

"Some of the pocket books seem to carry suggestive covers, which in some cases have no bearing on the contents".

". . . had observed, that the cover pictures in some cases (notably the horror or crime comic) depicted an unnecessarily horrible or brutal scene but as the contents of such books did not live up to the illustrations on the cover, no harm had been done. No specific publication was mentioned".

1. pp. 10,11.

"When I discussed the attached questionnaire with my Executive, none of us could give any specific incident or book, etc. that we felt was obscene or dangerous to our children, but the Executive all felt that it was mostly the covers on the magazines and pocket books that was objectionable. They have the most lurid pictures on the covers but nine times out of ten the story inside is perfectly all right".

The Positive Note[1]

"Your questionnaire is completely negative.
In this township we have made it our business to saturate our children with a wide selection of books recommended by children's division, Toronto Public Library. Hundreds of Ontario schools lack such library service and I would feel research had a constructive outlet by following this direction".

"We, as an association did check on our book stores, library and all news vendors. We found absolutely no books offensive to us or unfit for children. We have a splendid library and encourage our children to patronize same".

Instead of cencorship, why not give attention to make good books available to public schools in Ontario, in rural sections where library facilities are rare; children love good books".

1. See p. 24

"On receipt of your questionnaire I checked with our local bookstands, there are only two, and find they have nothing for sale but the most innocuous comics or books . . . Most of our children get their reading material from the travelling library which uses the school facilities as a library."

"As you state, I most deinitely treasure my right to read anything I like, be it good or bad, by someone else's standards. Reading tastes are like tastes in art, relevant to the person's personality".

(f) Analysis of Study Results

236 questionnaires out of 4,500 represents a return of 5%. Considering the shortness of the questionnaire and the facilities for easy (and paid) return, this is an extremely low percentage. We must infer that for the largest part of recipients the problem did not warrant their participation.

Out of these 5% another 70% stated that they had not seen a publication on display which was offensive to them. In regard to children the responses were even more negative. 82% of the returns had not seen any publication available for and in their opinion dangerous to children; and 94% had not seen any publication of an offensive nature in the hands of their children.[1]

1. See page 31.

Therefore, only 30% of the returns saw offensive publications on display; 18% saw publications which they considered as dangerous for children and 6% saw such material in the hands of their children. Since no identifying information as name and address was asked for on the questionnaire we cannot assume that these responses were given for self-protection.

As we would expect, most adults found publications offensive to them at the drugstore, news vendor, and book store. In regard to children the drugstore was mentioned far more often than any other place.[1] Among publications mentioned without specific title, horror comics were found dangerous to children much more often than any other types.

49 specific titles were mentioned as being offensive to adults. Flash and Hush are registered most often (11 times), followed by Confidential (5), Playbody (4), Sunbathing (4), and Monsieur (3). All other titles were only mentioned once or twice.[2] No pocket book was listed more than once.

13 titles were listed as dangerous for children, among them publications like T V Guide (pictures) McCalls (articles on marriage) and Readers' Digest (advertising). All titles were only mentioned once with the exception of Hush and Flash (2).

Although the questionnaire asks twice in bold type that material found offensive be enclosed (envelopes were designed in size for this), only 12 publications were submitted. Of those, only the May, 1958 issue of Sunbathing for Health was sent by two people, all others once only.

1. p.32
2. pp.34,35,36.

Complaints were listed as having been made by eight people, three to storekeepers and five to organizations. Four of those had satisfactory results, one complaint brought partial satisfaction and in three cases the results were listed as unsatisfactory.[1]

Letters sent along with the questionnaire indicated a wide variety of opinions. We have listed excerpts to give an indication of this diversity, although we generally found that more people expressed concern about censorship than about the problem under study. Some suggestions made in the letters indicate that the public was not only concerned about the negative aspect of banning offensive publications but also about positive measures.

1. See p.40.

SUMMARY

The study definitely indicates that there is no major concern in regard to obscene and indecent literature in the Province of Ontario at the present time. However, the survey of the publications listed as offensive by the citizens who participated in this study indicates that there are a number of publications which are on a marginal level in regard to obscenity and indecency. It seems therefore that at this time it is very appropriate to think of preventive action and not to wait until the situation deteriorates again, leading to emotionally laden public reaction.

Before we go on to our recommendations in this regard we will consider the Canadian Scene as a whole and the industry dealing with the publishing, printing and dissemanating of literature.

CHAPTER VI

THE CANADIAN SCENE

1. The Senate Committee

In the session of 1952-3 the Senate of Canada appointed a special committee on the sale and distribution of indecent literature. This committee held extensive public meetings in which a number of organizations and individuals testified.

The terms of reference for this committee were: - - that a special committee of the Senate be appointed, authorized, and directed to examine into all phases, circumstances and conditions relating to the sale and distribution in Canada of - -

1. Salacious and indecent literature;
2. Publications otherwise objectionable from the standpoint of crime promotion, including crime comics, treasonable and perversive tracts and periodicals;
3. Lewd drawings, pictures, photographs and articles whether offered as art or otherwise presented for circulation.

That without limiting the scope of its inquiry, the committee be authorized and directed to examine into -

(a) Sources of supply of the above noted items;
(b) Means and extent of distribution thereof;
(c) Relative departmental responsibility for entry or transmission;
(d) Sufficiency of existing legislation to define terms in relation thereto;
(e) Relative responsibility for law enforcement and effective legal measures of dealing with this problem.

That the committee have the power to send for persons, papers and records, and to secure the services and assistance as may be necessary for the proper prosecution of its inquiries.

That the said committee shall report its findings to this House. [1]

1. Proceedings No. 8, p.239.

The proceedings of this committee are a valuable document of informed public opinion on this matter and we have quoted from it in part 1 of this report. However, although they heard evidence from the representatives of the industry, no mention is made in the report[1] about the actual sale and distribution of publications in Canada. The report of the committee contains four parts:

The Post Office Department

Department of National Revenue,
Customs and Excise Division

Present legislation

Appeal to all Canadians

The report lists only one recommendation, namely, that the Excise and Customs Division expand its operation to meet proportionately the serious threat to the moral standards of Canada.

The absence of a more detailed report is apparently due to the fact that the Committee had hoped to be reappointed during the next session of parliament.

2. Present State of Concerns in Other Provinces

In the course of this study, letters were sent to the Deputy Attorney General of every province except Alberta, from which we have sufficient recent information. The letter asked for information on the following topics:[2]

1. Proceedings No. 8, pp.242-246
2. Letter and replies, appendix IV.

(a) Public pressure
(b) Any structure to deal with the problem like a committee, review board, etc.
(c) Any legal measures taken in your province
(d) Any statistics, reports, etc.

Answers were received from all provinces except Quebec.

Since the letters are given in full in appendix IV, a short summary should suffice here.

British Columbia No provincial legislation, no review board; some voluntary checks by groups like P.T.A. and various church organizations without official sanction.

Saskatchewan No apparent problem at this time.

Manitoba Considerable agitation over the sale and distribution of crime comics and obscene literature three years ago. The department took active steps to curtail the sale of such material. The two major distributors in Manitoba have co-operated with the Department in restricting the distribution of objectionable publications. In prosecutions against smaller, non-co-operative distributors, convictions were obtained.

Prince Edward Island No problem.

Nova Scotia From time to time requests for action against offensive literature, no particular complaint in recent months. No committee or review board but a good working operation with the principal distribution agencies who have withdrawn issues against which objections were intimated. Prosecutions are only instituted where there is no attempt to co-operate in solving the problem.

Newfoundland No prosecutions during the past three years. Problem curtailed by the co-operation of the distributor.

New Brunswick No public concern at present.

Alberta The province of Alberta has an advisory board on objectionable publications. This board was established in December, 1954 under The Cultural Development Act, Chapter 9 of the Statutes of Alberta, 1946. The board's function was defined in an order of council "to study and investigate the question of crime and other objectionable comics and salacious magazines, and to recommend effective action to prevent their sale and distribution in the province".

Members of the board receive no compensation but the government allows travelling costs and subsistence allowance.

The board has issued a pamphlet 'What's wrong with Comic Books' in which it makes parents aware of the dangers of sex and crime comics and in which it offers suggestions for good reading habits in the family.

49 Magazines have been withdrawn at the request of the board (no names released by agreement with Alberta distributors). The distributors have asked to have eight of these reconsidered at the request of the publishers. The board, after studying subsequent issues, has withdrawn its objections to three of these magazines. The distributors understand that they are welcome to meet with the board, in fact they have been invited to all meetings of the board. The board has received no adverse criticism from any distributor in Alberta, indeed, it has been commended for its impartiality and its willingness to discuss and reconsider any periodicals at a request of any distributor. Distributors in Alberta have stated that they are not eager to sell magazines detrimental to growth and good citizenship but they are not acquainted with all the contents of the mass of periodicals and comics they sell.[1]

This correspondence documents not only findings which are similar to ours but it contains many suggestions for possible solutions. For instance, it will be noted that several times the co-operation of the distributors with the Attorney General's Department is mentioned. We will follow this up in our chapter on the industry and in the recommendations.

3. The Law in Canada

The legal position in Canada is much clearer than in the United States since the Criminal Code is a federal law valid for the whole of Canada, although it is enforced by the provinces. Section 150 of the Criminal Code covers the sale and distribution of offensive material very adequately, in fact, it leaves the defense hardly any ground. Since an exposition of this section is contained in appendix I, it

1. Report on Objectionable Publications, Alberta, February 18th, 1957.

should only be stated here that there is no reason why this section should not provide enough legal protection against obscenity and indecency. The difficulty encountered in establishing as to what is obscene and what is not has been discussed previously.[1] However, the Hicklin test,[2] which is predominantly used in Canada, is so broad and inclusive that it would cover any marginal publication.

In Ontario, Section 16 of The Judicature Act also contains the provision for obtaining injunctions, although it has been ruled ultra vires.[3]

The Post Office

Under section 7 of the Post Office Act, the Postmaster General has the authority to issue any order prohibiting the use of the mails to any person whom he has reasonable grounds to believe is using the mails for the purpose of committing or attempting to commit an offense of any kind. Further, under section 5, sub paragraph (p) of the Post Office Act gives the Postmaster General authority to declare what is and is not mailable matter. This he does by way of regulations. As a matter of fact, the regulations which he has made in this connection are found in sections 3, 4 and 7 and 3, 4, 8 of the Postal Guide, which sections declare obscene material to be non-mailable matter and forbids the use of the mails for the distribution of such matter.

1. See Chapter IV pp. 12 - 16.
2. See p. 13.
3. See appendix I.

Under section 5 (n) the Postmaster General has authority to open all mail except letters that are first class mail, for the purpose of making sure that regulations are not violated. Under section 44 of the Post Office Act any mail received from outside Canada, which is suspected of containing material subject to Customs duty are referred to the Customs authority.[1]

The Customs and Excise Division

Section 13 of the Customs Tariff, the Department of National Revenue Act, prohibits the importation into Canada of any goods described or referred to in schedule C. Included in Schedule C is Item 1201. This item includes books, printed paper, drawings, prints, photocrafts or representations or any kind of treasonable or salacious or of an immoral and indecent character.[2]

As an aid to Customs officials in regard to what is indecent or immoral the Department issues a list of books and publications which, through the years, have been ruled to be immoral or indecent. This list is incorporated in the instructions to Port Officers. Any new titles are scrutinized and in case of doubt, the collector will hold the delivery while he forwards a single copy to Ottawa for examination. There it is received by the executive assistant and if, in his opinion, the item should be classified under Tariff Item 1201, it goes to the Deputy Minister and at last to the Minister for his personal decision before its entry is prohibited.

1. Information from 'Proceedings of the Special Committee on the Sale and Distribution of Salacious and Obscene Literature, No. 7.
2. Ibid. p. 181.

This indicates that the Department takes the question of censorship very seriously. If a publisher wants to appeal the decision he can do so and as has recently happened in the case of Peyton Place a favourable decision can be achieved.

Blair Fraser, in a recent article in MacLean's Magazine[1] takes issue with item 1201 of the Customs Tariff: "There is a fair chance that the next session of parliament, no matter which party forms the government, may rid Canada of a system of book censorship that is the silliest in the civilized world. If all goes well, 1958 will see the repeal of that fatuous sieve-stopper, article 1201 of the Customs Tariff - the article that makes the Canadian Customs Officer a censor in spite of himself." He realizes that "repeal of article 1201, in the opinion of the very officials who most want it repealed, will bring a temporary upsurge in the flow of improper literature from abroad. They are quite confident it will be no more than temporary, if only because any decent book that turns out to be popular is usually printed in Canada anyway but they do expect a flood of the stuff at the beginning."

This is a very serious problem. On looking over the list of books, magazines and other publications circulated by the Customs Department to Port Officers, one cannot help but realize that the absence of actual pornography in Canada is due to this provision.

1. MacLean's Magazine, March 14th, 1958. p.2.

We would face the same situation as found in the United States and it would be a fallacy to assume, as Blair Fraser does, that the Criminal Code and the Courts would be able to control the problem alone. We refer to page 15 of this study, in which it has been pointed out that this may be true in the case of books. In the case of magazines, comics, etc. it would be impossible, and it may lead to a much more stringent censorship if the reasonable control of the customs division were to be removed. The Senate Committee also recommended five years ago that the Excise and Customs Division expand its operation to meet proportionately the serious threat to the moral standards of Canada.[1]

Recent relaxations which resulted in the taking off of a number of magazines from the customs list has already led to a deterioration (Playbody, Monsieur, etc.) Even the distributors have already complained that since these publications are allowed to pass the Customs they are in a rather untenable position between the cleared publisher on the one hand and the public and the Courts on the other.

If, by the removal of the Customs control the distributors were flooded with pornography, they would either have to do the censoring themselves, which at the present stage of their business they are unable to do or they would have to face the full severity of the law. The publishers, on the other hand, being outside the country, could only profit from the situation since they could not be fined.

Therefore in every respect the removal of item 1201 from the

1. See p. 50.

Customs tariff can only prove harmful in the long run. It has been pointed out previously how careful the Customs Division is before a book is prohibited entry into Canada, and it cannot be regarded as a rigid means of censorship. Considering the problem obscene publications pose in the United States, this safeguard is well warranted.

CHAPTER VII

THE INDUSTRY

In considering the industry connected with the publishing, printing, distribution and sale of publications we will use the following stages:

1. The Publisher
2. National Distribution
3. Local Distribution (Wholesale)
4. Retail
5. The Consumer

1. The Publisher

The field of publishing is a rather complicated one today. No longer are we dealing with a few well established firms but with a great number, publishing a vast variety of productions, facilitated by fast and cheap modern printing procedures. The field is highly competitive and the major question, at least commercially, is no longer the product but the efficiency of distribution. In most of the cheaper publications, the ones we are primarily concerned with, a profit can only be achieved through mass distribution and sale since the initial costs are absorbed by approximately the first 100,000 copies. Modern printing facilities also make it possible to change publications fairly easily so that a ban in the case of magazines can easily be circumvented.

Since distribution is the key in the field we will consider it more extensively. Furthermore, there is more concrete information about this part of the industry and as one level of distribution, (wholesale) is on the local scene, measures of control can best be instituted there.

2. National Distribution

National distribution firms are sales agencies used by the publishers for the distribution of their goods to wholesalers across the United States and Canada. These firms are either independent or publisher-owned. The ones owned by the publisher or a group of publishers fall roughly into three categories. They can:

(a) distributeits own publication exclusively

(b) accept publications from other publishers for distribution also.

(c) be owned by a number of publishers co-operatively under a fairly independent management which will assure impartial distribution.

The major national distributors for the wholesale distributors in Ontario are:

Ace News Co., N.Y.
(Romance, Men's Publications, Ace Novels)

Canadian Colonial Distributors, Ltd.
(Playboy, Flash, Hush, Harvey Group Comics, Western, Romance, Adventure, Teenage, etc.)

Capital Distributors, Ltd.
(Comics, Romance, Movie)

Curtis Circulation Co ., Philadelphia.
(Ladies' Home Journal, Saturday Evening Post, Fashions, Esquire, Bantam Novels, Harlequin Novels, etc.)

Dell Publishing Co.,
(Comics, Animated, Western, Modern Screen, and 'one-shot-publications', Baseball, Cooking, Dell Novels, etc.)

Fawcett Publications Inc.,
(True Confessions, Mechanics, Gold Medal etc.)

Gordon and Gotch Ltd.,
(English Publications)

Hillman Publications Inc.,
(Pageant, Romance, Movies, Detective etc.)

Independent News Co. Inc.,
(D.C.Comics, Signet, Mentor Pocket Books, Romance, Movie News, Science Fiction, etc.)

International Circulation Distributors (Hurst Pub.)
(Cosmopolitan, Dennics, Avon Books, Popular Library, Bowling Magazine, etc.)

Kable News Co.
(Beacon Books, Pyramid, Comics, Movies, Romance, etc.)

M.L.A. Publications Inc.,
(T.V.Guide, Official Detective, etc.)

McFadden Publications Inc.,
(True Story, Photoplay, Romance Titles, Quality Photographic Books, Car Books, etc.)

Publishers Distributing Co.,
(Movie, Romance, Detective, etc.)

S. M. News Co., Inc.,
(Readers Digest, Better Homes, McCall's etc. Pocket Books)

Trans-Canada News Co.,
(MacLean-Hunter Pub.)

These national firms operate on a franchise basis with the local (wholesale) distributor. The franchise assures the local distributor exclusive distribution, and the national firm proper distribution of their goods.

3. Local Distribution

There are 55 wholesale distributors in Canada, who are organized under a non-profitable organization charter as 'Periodical Distributors of Canada'. In the province of Ontario there are 21 of those 55. They are located in:

Ottawa	Toronto (2)	Chatham
Arnprior	Hamilton (2)	Windsor
Cornwall	St. Catharines	Kirkland Lake
Kingston	Brantford	Sault Ste. Marie
Belleville	Kitchener	Timmins
Peterborough	London	Sudbury
	North Bay	

A wholesale distributor has in his stock about 1500 different titles at any given time. Those are approximately:

40 Newspaper

600 Pocket Novels

900 Magazines

Distribution

With so many different items a wholesaler has to deal with, the process of ordering the stock from the national distributors and the supply to the retailer must of necessity be a highly mechanized one. The system used is simple and intricate at the same time and it has to be understood for the proper assessment of the distribution process.

The wholesaler has an index card on every retailer and on every publication. Some publications of a similar nature may be grouped together. The retailer's card shows the number of copies of a specific publication sold by a given retailer. The stock supplied to the retailer is made up according to this figure, allowing for certain trends. Unsold copies are picked up again and the retailer receives credit for them. If a publication is unacceptable to the retailer, he can either inform the wholesaler that he does not want this specific publication, or he can return the copies as

unsold, which would be registered on his card and automatically influence the placing of the next distribution he receives. The accusation that a retailer is threatened with the withdrawal of class publications if he does not display offensive material can hardly be true since the wholesaler would violate his franchise with the national distribution firms in this way.

The placing of publications according to sales figures is very important for the wholesaler as he only makes money on copies sold. The returns, that means unsold copies, are a liability to him, as he has to cover all the handling charges. From the copies unsold the front page is torn off and returned to the source of supply.

THE QUESTION OF FRANCHISE

The wholesaler has a franchise with each national distribution firm he is dealing with. This franchise is a protection for him since nobody else will be able to sell these publications in his territory. On the other hand, these franchises are his business and some measure of coercion on the part of the national distributors is possible, in the threat of cancellation of the franchise. Further to the vast number of items in stock, it is this arrangement which makes it difficult for the wholesaler to assume a censorship role. If, however, the withdrawal of a certain publication is recommended by a source like the Department of the Attorney General he has definite proof for the non-acceptance of any offensive item. The periodical distributors of Canada seem to recognize this and they have expressed their willingness to co-operate in any

such arrangement which would not only affirm their stand in regard to their source of supply but would also give them a better status in the public eye and more security before the law. This will be followed up further in our recommendations.[1]

4. Retail

In discussing wholesale distribution we have already considered the process in which the retailer receives his goods from the wholesaler. The retailer's contribution actually consists of placing the goods delivered to him for display. The stock is delivered to him and unsold copies are picked up again. The wholesaler actually does the bookkeeping for him. We have also stated that there does not seem to be any coercion directed towards the retailer as the wholesaler is bound by a franchise and the retailer has the option of refusing certain publications if he wishes to do so or he can simply not display material which he considers offensive.

5. The Consumer

The process of distribution as described before shows clearly that the consumer influences heavily the type of publication offered for sale. It is his actual purchase which is registered with the wholesaler and this determines future orders.

In other words, the consuming public gets what it asks for. The profits made by the wholesaler and retailer on cheap publications is not substantially higher than on class

1. See p. 69.

publications and therefore does not represent enough inducement to wean the public from good publications.

On the contrary the question of lewd covers[1] and exaggerated content descriptions[2] shows that often good books are sold under an offensive guise. This would indicate that general reading habits are on a low level. It can be assumed that if more good publications were bought by the consuming public the publishers would be eager to supply them.

The QUESTION OF PROFITS

Profits on the publishing level are very difficult to estimate. They depend on various factors, the major one being the number of copies the publisher can sell. The first 100,000 copies will bring only little profit in most cases, since they have to absorb the initial costs. Any further copies are very profitable as they involve only the cost of paper and printing.

This is especially true in the case of pocket books. Magazines rely in various degrees on profits made by advertisements. Magazines like Saturday Evening Post and Life Magazine cost the publishers more than they are sold for. The profit is made entirely out of the advertising.

Summarizing we can say that real profits only emerge out of mass production and mass distribution of either sales or advertising.

National distributors, as we have pointed out before, work on different systems and therefore costs are very difficult to estimate. If the national firm is publisher-owned,

1. See pp. 10,11.

profits are non-essential. If it is independent commissions vary with the size and effectiveness of distribution.

More important for our purposes are the profits made by the wholesale distributor and the retailer on the local scene.

Wholesale and Retail Profits

The average profit on the part of the wholesaler is 17% to 20%, with the exception of comic books (25%). The average retail profit amounts to 20%.

Details

Class Publication

e.g. Saturday Evening Post	- Wholesaler	18%
	Retailer	20%
e.g. Ladies' Home Journal	- Wholesaler	17%
	Retailer	20%

Salacious Literature

e.g. Playboy	- Wholesaler	20%	(8¢ out of 40¢)
	- Retailer	20%	(10¢ out of 50¢)

Comics

	- Wholesaler	25%	(2¢ out of 8¢)
	- Retailer	20%	(2¢ out of 10¢)

Pocket Novels

	- Wholesaler	17%	(5¢ out of 28¢)
	- Retailer	20%	(7¢ out of 35¢)

The average wholesaler carries about 350 copies of one title of pocket books which means that he would make about $15.00 per title. All the profits mentioned are gross profits, which are made only on copies sold.

Further Information

The periodical distributors of Canada presented a brief to the Senate Committee which contains a good exposition of their business. We have therefore added this brief under appendix V as additional information on this part of the industry.

This association also presented a brief to the Attorney General of the province of Ontario in which they express their concern about the unfortunate position in which they are placed by Section 150 of the Criminal Code (previously Section 207). They requested an amendment of the law and stated that they "would be prepared to enter into continuous and regular contact with the Attorney General in question with a view to the establishment of a procedure for the orderly and reasonable investigation of any and all complaints that may be received by enforcement authorities and others relative to specific magazines."[1]

1. See Summary and Conclusions, pp.67,68.

SUMMARY AND RECOMMENDATIONS

1. Summary

In part one of this study we have attempted to analyze the psychological and social implications of obscene and indecent literature and the controls which may be adopted. We have seen that our psychological knowledge in this matter is very inconsistent and that the opinions of professionals dealing with psychosocial deviations are divergent and in some ways even contradictory.

In regard to social norms and moral behaviour the major dichotomy was found in two values of our society, namely, freedom and protection of moral standards. This dichotomy, we have shown, cannot be solved by a hard and fast rule but has to be a decision which every society has to make from time to time. In making this decision a number of social controls have been considered. It was found that although the law is of supreme importance, the courts cannot solve this problem for society alone. Not only does the law have to take into consideration the feeling of society in regard to obscenity, it also has to leave room for civic action. Censorship boards were found to be the most authoritative kind of public action, whereas review boards acting in the advisory capacity represented a more flexible instrument. Certain groups in the society should have the right to establish their own norms as long as they do not attempt to force their norms on other groups. We ended the general part by indicating that not only negative measures of control should be considered but also positive ones.

Part two starts out with a description of the public concern in Ontario and the study made to specify this concern. The study reveals that at the present time there is no alarm in the province, as established through a responsible citizens' group, but that it was the proper time for considerate preventive action. We have pointed out that our findings coincided with the experience in other provinces.

In order to arrive at valid recommendations, specific social controls on the Canadian scene and the industry connected with the publishing, printing, distribution and sale of literature were analyzed. The following conclusions have emerged.

2. Conclusions

(a) In view of the fact that many marginal publications can be found on the bookstands and in view of the fact that such material is asked for and consumed by a great number of the general public, a recommendation should be made to the Canada Council, to study the reading habits of the Canadian public with the aim of finding ways and means to foster a better appreciation of good literature.

(b) That a recommendation be made to the education authorities to expand the supply of good reading material in the form of library facilities at the schools in this province and also that selected pocket books and magazines be available at the schools for students to foster the individual acquisition for a valuable home library.

(c) That the following method of preventive justice be considered:

Any concern or complaint made to the Department of the Attorney General or to law enforcement bodies be followed up by the Department with a request for submission of the offensive material in question. On receipt of the publication a decision should be made by the Department or an advisory committee as to the validity of the concern. If the concern is found justified, a liaison person, appointed by the periodical distributors of Canada, should be contacted with a recommendation for withdrawal of the publication. The distributors have intimated that the withdrawal can be effected in a very short time and that they, in turn, would notify the publisher of the recommendation. If the publisher should not agree with the recommendation he is free to establish a test case at the proper courts.

This administrative procedure of preventive justice would eliminate coercion and would therefore supplement the law. It would further eliminate unwanted publicity. This would be in the interests of the public good as well as in the interests of the proper conduct of the industry.

(d) That in case a removal of the tariff item 1201 is considered by the federal authorities, a recommendation be made to retain tariff item 1201 with the reservation that it be applied only to material which can easily be classified as pornography.

(e) That this report be made available to interested organizations, in part or in full, subject to changes by the committee, to guide them in any effort to further a wider interest in better reading material and to guide them in the proper participation to further reasonable controls.

APPENDIX I

NOTE: - The following bodies or organizations were not officially represented at the meeting of January 23rd, 1956, but members from all of these were in attendance without being committed to any definite action.

The Canadian Council of Churches

Metropolitan Board of Public Affairs of the Y W. C. A.

The Catholic Women's League of Canada

Parents Action League of Ontario

Toronto Conference Women's Association of the United Church of Canada

Toronto Conference of the United Church Women's Missionary Society

National Council of Jewish Women of Canada

Provincial Council of Women of Ontario

The Local Council of Women - Toronto

Girl Guides Toronto Committee

Diocesan Council of Social Service of the Anglican Church

The Salvation Army

Toronto Babtist Women's Association

Toronto Baptist Church Council

Daughters of the Empire

The Baptist Missionary Society of Canada

The Canadian School Trustees' Association

Federation of Catholic Parent-Teacher Associations of Ontario

The Canadian Home and School and Parent-Teacher Federation

Toronto Diocesan of the Women's Auxiliary of the Anglican Church

Public Schools Trustees Association of Ontario Incorporated

APPENDIX I (Cont'd)

To
The Hon. Kelso Roberts,
Attorney General,
Province of Ontario.

On behalf of the various civic and religious groups which we have the honour to represent, we wish to bring to your attention the serious problem which we face in the sale and distribution in Ontario of obscene and indecent publications and periodicals.

1. The Present Situation

The thousands of parents and other interested individuals for whom we speak are deeply concerned over the tide of pornography which has flooded the book-stands of this province during recent months. Lurid-covered magazines and other publications, many of which are extremely objectionable, can be purchased in all kinds of stores.

Referring to these publications in the House of Commons, in Ottawa, the Minister of Justice and Attorney General declared that they have "no redeeming features of any kind; no distinction of conception or style; certainly no idealism; not even any genuine realism; nothing but hack-worth filth seeking filthy lucre". An editorial writer in The Ottawa Citizen says that the sole theme of many of these publications is "the unsavory experience of sneak thieves, drug peddlers and prostitutes. Such publications pervert the minds of children and adolescents. They are not literature. They are, instead, unhealthy excrescences of the publishing trade. They can probably best be described as pornography for profit".

APPENDIX I (Cont'd)

With judgments such as these we find ourselves in complete agreement, as do the many groups we represent. From every section of Ontario, service clubs, home and school associations, parent-teacher organizations and religious groups have raised their voices in protest against this moral and social evil. Over the months there has developed a widespread conviction that something should and must be done to meet and overcome the menace of obscene and indecent publications.

2. An Involved Problem

We are aware of the difficulties which you and your colleagues have to face in seeking to deal with this involved and intricate problem, and we realize that the question of what to do about these objectionable publications is not quickly and easily resolved. We recognize the fact that not all the books which deal with sex and crime are necessarily and automatically obnoxious or indecent. Some of the world's greatest writers and artists have dealt with these two subjects, and it is sometimes difficult to interpret the law in such a way as not to injure legitimate literature and at the same time to eliminate filthy and obscene publications.

3. The Need for Action

However, without modifying in any respect our statement regarding the difficulty of dealing with this involved problem, we submit that much of the so-called literature flooding bookstores of Ontario today can best be described as "pornography for profit", and we believe the time has come for definite action on the part of those responsible for law enforcement in this province.

APPENDIX I (Cont'd)

The various groups which we represent insist that freedom of speech must be maintained, but at the same time there must be a proper emphasis placed upon the curbing of legal infractions. Properly enforced legislation has always had a place in the democratic system of government under which we live. We do not desire a police state, but we believe that action should be taken to prevent the exercise of license by the few who would undermine decency for monetary gain. While firmly opposed to any suppression of idea formation through censorship it is our conviction that there is a wide difference between that and the drawing of a line of demarcation as to what is decent and what is indecent. Our concern is solely for those periodicals which are published for purely pornographic purposes and which may legitimately be called obscene and indecent.

Thousands of dollars are spent each year by the citizens of Ontario on youth centres and places for healthful recreation. Week after week loyal and devoted teachers in Church and Synagogue seek to train boys and girls in the things which make for clean and decent living. Yet all the while a tide of filthy reading material is allowed to spread its poison over the province. We submit that the time has come to put teeth in the legislation dealing with the sale and distribution of obscene and indecent publications.

4. Some Suggested Action

In an effort to deal with this serious and complex problem, we offer the following suggestions and recommendations:

APPENDIX I (Cont'd)

a) We urge that the Attorney General's Department intensify its campaign to enforce the law dealing with the publication and distribution of obscene printed matter as set forth in Section 150 of the Criminal Code of Canada.

b) In view of the fact that at the present time it is extremely difficult to secure a ruling regarding what is meant by the adjectives "obscene" and "indecent", we recommend that the Attorney General petition the Department of Justice, in Ottawa, to set up a small committee of those skilled in the law whose job it would be to attempt to enact a satisfactory and workable definition of the term "obscene".

c) We strongly recommend that the Attorney General give serious consideration to the setting up of a representative review board which could advise him regarding the presence and sale of obscene publications in this province. If a review board is established, we respectfully suggest that its personnel should include representatives of the various civic and religious groups in Ontario.

5. Our Attitude to the Problem

Having set these facts before you and offered these recommendations for your sympathetic consideration, we conclude our brief with an acknowledgement of the fact that good legislation, desirable and necessary as it is, cannot of itself adequately meet the situation. The problem we face has moral and spiritual implications which also must be taken into account. The whole moral tone of the nation must be lifted to a higher level. In our homes, schools, Churches and Synagogues we must instil within our

APPENDIX I (Cont'd)

children a deep faith in God from which they will derive the ability to recognize, not only the physical, but also the social, moral and spiritual "facts of life".

Recognizing this fact, the various groups and organizations which we have the honour to represent pledge themselves to a renewed effort, by precept and example, to improve the moral tone of this province. We sincerely trust that those charged with the responsibility for law enforcement in Ontario will do all within their power to assist us in our attempt to deal with the problem of the sale and distribution of indecent and obscene publications in this province.

All of which is respectfully submitted.

APPENDIX II

Statement Made by The Honourable Attorney General
Excerpts from Hansard, Wednesday, February 29th, 1956

"Mr. Speaker, during the last few weeks I have received a great many communications from well-meaning people in all parts of our province, urging that I do my utmost to protect the youth of this province from the dangers of crime comics and salacious literature. This culminated last Friday in a brief being presented by a representative group, representing some 17 different organizations, and I think I should put the names of those organizations on the record. They are:

(Listed in Appendix I)

Freedom of expression, with respect to speech, discussion and opinion, while an original freedom, is not an unrestricted freedom. Therefore we have in our laws provision for infringements or violations by way of civil actions or criminal procedures. Civil rights can be maintained against defamation, assault, false imprisonment and the like, and the punishments under the Criminal Code are provided, which, of course, are federal statutes.

A great writer once said of literature: 'The most seductive, the most deceiving, the most dangerous of professions.' In this field, those words are very significant.

Section 150 of the Criminal Code contains the penalties and outlines the crimes in relation to this matter. I would draw the attention of the hon. members of this house to section 150, section 1 (b):

APPENDIX II (Cont'd)

'Everyone commits an offence who makes, prints, publishes, distributes, sells or has in his possession for the purpose of publication, distribution or circulation a crime comic.'

By subsection 7, a 'crime comic' is defined as:

'a magazine, periodical, or book that exclusively or substantially comprises matters depicting pictorially (a) the commission of crimes, real or fictitious, or (b) events connected with the commission of crimes, real or fictitious whether occurring before or after the commission of the crime.'

The same section also deals with obscene and indecent material generally.

It is interesting also to note that in defence the accused may show the material was for the public good. It is also provided:

'Where an accused is charged with any of these offences, the fact that he was ignorant of the nature or presence of the matter, crime, etc. by means of or in relation to which the offence was committed, is not a defence to the charge.'

So that ignorance, as to content under the Criminal Code, is no defence.

The English Act, which was passed last year is entitled 'An Act to prevent the Dissemination of Certain Pictorial Publications Harmful to Children and Young Persons.' It is limited to young people while - as you will find the Criminal Code is not - to any age.

APPENDIX II (Cont'd)

The English Act does limit to young persons. The English Act makes ignorance a defence, or permits ignorance of the contents to be raised as a defence.

The penalties are quite severe because under the indictable provisions of the Code, a penalty can be imposed up to two years in prison, or, in the case of a corporation, there is no limit to the amount of the dollar fine which may be imposed.

With regard to summary convictions: proceedings can also be brought under the Summary Convictions Act summarily before a magistrate, where the penalty, of course, is limited to 6 months in prison or $1,000 fine.

My attention has been drawn also to the Connecticut Act, but that Act, after examination, reveals that it is limited to children 18 years and under, and there is nothing in it which is not already covered by the Code in our view.

The English Act to which I have referred,has certain features as to powers of search, to seize and forfeit the printing press, material, and so forth, if it offends. Also, it contains an importing prohibition so that in a country such as Great Britain, with a prohibition against importing this particular type of literature, together with strict internal control of the publications, they are able to give effective control, in my opinion.

However, with regard to importing, I would like to say that the special committee of the Senate of Canada, which brought

APPENDIX II (Cont'd)

in its report 3 years ago, draws attention, at page 244 of the printed material, to the effect that ever since 1867, there has been in force the following prohibition to importation in the Customs and Excise Division schedules of the customs tariff:

> 'Books, printed paper, drawings, paintings, prints, photographs or representations of any kind of a treasonable or seditious or of an immoral or indecent character.'

It will be seen then that such material can be prevented from importation.

The recommendation of the committee three years ago was:

> 'Your committee recommends that the Excise and Customs Division of The Department of National Revenues expand its operations to meet proportionately the present serious threats to the moral standards of Canada.'

How far they have gone is not indicated, but the fact that I have had so many communications recently would seem to indicate, in all probability, they have not gone nearly far enough.

Section 153 of the Criminal Code provides an offence for using the mails of Canada for distributing material of this sort.

APPENDIX II (cont'd)

The Judicature Act - coming to the provisions in the field of this Legislature - section 16, contains the provision for obtaining injunctions, and subsection 2 is of particular merit in relation to this subject matter. It reads:

> 'An action may be brought in the Supreme Court of Ontario by or on behalf of the Attorney General for an injunction or mandamus restraining the publication or any newspaper, publication, pamphlet, magazine, periodical or other printed matter whatsoever which publishes continuously or repeatedly writings or articles which are obscene, immoral or otherwise injurious to public morals.'

Subsection 6 says:

> 'An action under subsection 2 or 3 may be brought against anyone printing, publishing, or distributing any publication of any kind mentioned in subsection 2.'

In 1940, when the hon. members opposite - or some of them - were sitting on this side of the House, the then Attorney-General instituted an action under this section known as the 'Koynak case' and the late Mr. Justice Gerald Kelly held that in that particular case, where morals were involved, the provincial statute invaded the federal field of criminal law. Consequently he refused, on that occasion, to grant an injunction.

In doing that, he went counter to a much more senior judge,

APPENDIX II (Cont'd)

the late Chief Justice Rose, who had held shortly before that the section was intra vires and not ultra vires of the Provincial Legislature.

Since 1940, no procedures have been instituted under that section; however, I feel that the case would not hold at a higher level, and I refer particularly to the fact that we have, in our daily practices, many instances of this sort of thing. In the field of nuisances, we have both the criminal application of the Criminal Code, and the civil application of our own Statutes dealing with the same subject matter.

In the field of criminal negligence on our highways, we are constantly having both taking place at the same time. In the field of labour relations, there is provision in the Criminal Code with respect to 'besetting','illegal picketing', and so forth. Section 17 of The Judicature Act, following the section I have just quoted, limits to 4 days' duration any ex-parte injunction granted under the labour section. We have the two actions running side by side, one in the civil field, by way of injunction, and one in the criminal field, under the federal Code.

Therefore, if occasion should arise where a situation might require action under The Judicature Act by way of injunction, it would, on advice of the Crown legal officers, be another means of proceeding to correct this situation."

APPENDIX II (Cont'd)

"The test of 'obscenity' in an old case, in 1868, I think is still the law as far as our courts' interpretations are concerned. The test is this:

> 'whether the tendency of the matter is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands the publications may fall.'

The fact that what has or has not a tendency to corrupt in one generation, may differ in another generation, does not necessarily change the formula or the test, because the test remains the same at the time of the hearing, the 'tendency to corrupt'.

I have in my hand some pamphlets which were sent to me a few days ago by one of the correspondents I have mentioned, and which may very well illustrate whom they might 'tend to corrupt', and whom they might 'not tend to corrupt,' for the problem is definitely a difficult one.

I might mention a recent trial in Ottawa - there seems to be a great deal going on in Ottawa these days - of Regina vs. American News Company Limited. The decision which was rendered by His Honour Judge J. deN. Kennedy last Thursday, I think is of sufficient importance and relevancy so that I might refer in detail to the sentence, because it seems to me to be very much in point in relation to this problem at this time:"

I might say that is now in appeal.

APPENDIX II (Cont'd)

This goes on:

'Regarding the penalty, there is no doubt in my mind that the writing, publishing and distribution of obscene books and magazines is a very big and profitable business.'

I am quoting from the court reporters' recording of the sentence:

'The extent to which such books and magazines are flooding into Canada, mostly from the United States, can be seen by a cursory examination of the shelves of most news stands in any of our cities and towns. I think it is fair to state that there are publishers and distributors or paper covered editions of books and of magazines who recognize the commercial value of obscenity to the extent that they tend to exaggerate the off-coloured contents of such books and magazines by dressing them up with pictures on the covers deliberately created to whet the appetite of a prospective purchaser.

It seems to me that the only way to stop this traffic in obscenity is to impose fines that take away the profits of obscenity, and whenever it is possible to do so to impose prison sentences. There have been other prosecutions for obscenity in this country where nominal fines were imposed as a warning and such warning has not been heeded. For the reasons mentioned, in my opinion there must be imposed in this case a substantial fine, and I hereby fine the accused, American News Company, Limited, $5,000.'

APPENDIX II (Cont'd)

In conclusion, I will answer the hon. member for Brant, I would like to mention Mr. Raoul Mercier. Effective prosecutions under the Criminal Code, such as the one just concluded in Ottawa, after a lengthy trial which was conducted on behalf of the Crown by Crown Attorney Raoul Mercier of Ottawa - who was, by the way, a class-mate at Osgoode Hall of the Hon. Prime Minister (Mr. Frost), the hon. Minister of Planning and Development (Mr. Nickle), the hon member for York East (Mr. Beckett), and myself - together with sensible use of the injunctive procedure, if found available, joined with the efforts of an educative and guiding nature by organizations, such as I have mentioned, and by the main body of publishers, should make great strides in closing the gap in this troublesome and moral-upsetting problem.

This government, I am sure, will do its best with this sort of co-operation to bring about a fair and lasting result.'

APPENDIX III

Dear Sir / Madam:

The Department of the Attorney General of the Province of Ontario has received complaints about alleged obscene and indecent publications, magazines, pocket books, comics, etc., appearing on the book-stands of this province. Although the legal side of this problem is only one of many, the Attorney General, after due consideration, has accepted leadership in studying this question thoroughly. A Committee was set up and a research consultant was appointed.

To proceed with this study it is important to get facts, and the only facts in this case are your personal observations and your own attitude in regard to them, as a responsible citizen. We trust that you treasure your freedom to read and to make choices and we also trust that you are concerned, if there is reason, that this freedom is not abused.

There are no standards as to what is acceptable and what is objectionable and we therefore depend on your very personal reaction to the material displayed on the book-stands. In filling in the attached questionnaire, which would only take you a few minutes, please keep this in mind. If you have made no personal observation please do state so and do not let this deter you from returning the questionnaire. It would be of great assistance to us if you could enclose any relevant material, which we would return after examination.

In the envelope you will find a stamped return address sticker, which will enable you to use the same envelope for your reply.

Your co-operation is very much appreciated.

J. W. Mohr, Ph.D.,
Research Consultant.

JWM/IB.
Encls.

APPENDIX III

QUESTIONNAIRE

On Indecent and Obscene Literature

I. Questionnaire received from . . . . . .
(club, association, etc.)

Place of Residence . . . . . .

Please give your:

Age. . . . . Sex. . . . . Marital Status . . . . . Children . . . .
(number)

II. During the past year, did you see a publication (magazine, book, comic, periodical, etc.) on display, which was offensive TO YOU:

Check: Yes . . . . . No . . . . . .

Where: at Drugstore . . . . . Hotel . . . . . News Vendor . . . . . .

Book Store . . . . . Other . . . . . .

Please give as many details as you can:

Type (magazine, pocket book, comic, periodical, etc.)	Title	Issue	Offensive Part (article, cover, pictures, etc.)

(If further space needed please add extra sheet)
PLEASE ENCLOSE ANY MATERIAL YOU HAVE

III. During the past year, did you see any publication, available for and in your opinion dangerous to children:

Check: Yes . . . . . No . . . . . .

Where: . . . . . .

Have you seen any such offensive publication in the hands of your children:

Check: Yes . . . . . No . . . . . .

Please give as many details as you can:

Type (crime, horror, sex comics, etc.)	Title	Issue	Offensive Part (cover, writing, pictures, etc.)

(If further space needed please add extra sheet)
PLEASE ENCLOSE ANY MATERIAL YOU HAVE

IV. Have you ever made a complaint: (check)

	Satis. Results	Unsatisfactory
To storekeeper	. . . . .	. . . . .
To church	. . . . .	. . . . .
To Police	. . . . .	. . . . .
To organization.	. . . . .	. . . . .

APPENDIX IV

C O P Y

J. W. Mohr, Ph.D.
Research Consultant,
214 Wychwood Avenue
Toronto, Ontario.

Residence Telephone: Le.4-0645
Office Relephone: Wa.3-8439

January 27th, 1958.

Deputy Attorney General,
Provincial Government,
- - - - - - , - - - - -

Dear Sir:

The Department of the Attorney General of the Province of Ontario has undertaken to study the question of offensive literature like magazines, pocket books, comics, etc. A committee has been set up and I have been appointed as research consultant.

It would be extremely valuable if we could get any information from your department as to your experiences in this matter in regard to

(a) public pressure
(b) any structure to deal with the problem like a committee, review board, etc.
(c) any legal measures taken in your province
(d) any statistics, reports, etc.

Any other information you could furnish us will be very much appreciated.

Thanking you for your co-operation -

Yours truly,

(signed) J. W. Mohr, Ph.D.,
Research Consultant,
Advisory Committee
on
Obscene and Indecent Literature.

JWM/IB.

APPENDIX IV

C O P Y

PROVINCE OF SASKATCHEWAN

DEPARTMENT OF THE ATTORNEY GENERAL

JLS/RMB

Refer to file
CB 1173

Regina, January 31, 1958

Dear Dr. Mohr:

Re:Crime Comics, etc.

Replying to your letter of the 27th instant seeking information from this province as to offensive literature, such as in magazines, pocket books, comics, etc. for study by the committee which has been set up in Ontario, I may say that at the present time obscene literature, crime comics, etc. are not really a problem in this province. Everything is going along very smoothly just now and possibly this is due to the arrangements which have been made with those who enforce the law in Saskatchewan. The enforcement of the law in this province is the responsibility of the Chief Constables of the cities and towns having their own police force, while the responsibility for enforcing the law outside of the cities and towns having their own police force is one for the R.C.M. Police. Most complaints of this nature, of course, arise in cities and towns and the Chief Constables of the cities and towns do not make reports to this Department in regard to the enforcement of the law in the municipality and, consequently, I have nothing on file as to what is really transpiring in the cities and towns. I would suggest that you communicate direct with the Chief Constables of the cities in Saskatchewan in this connection and no doubt they will be able to give you their views as to the situation in connection with offensive literature in this province, particularly in the cities.

There are now nine cities in Saskatchewan but you might at least write to the Chief Constables of the major cities, such as Regina, Moose Jaw and Saskatoon.

Yours truly,

(signed)

Deputy Attorney General.

J.W. Mohr, Esq., Ph.D.,
Research Consultant,
Advisory Committee on Obscene and
Indecent Literature,

214 Wychwood Avenue,
Toronto, Ontario.

APPENDIX IV

C O P Y 156

Province of Manitoba
DEPARTMENT OF ATTORNEY-GENERAL
Deputy Minister

WINNIPEG 1

February 5th, 1958

J. W. Mohr, Esq., Ph.D.,
Research Consultant,
214 Wychwood Avenue,
Toronto, Ontario.

Dear Sir:

I acknowledge receipt of your letter of the 27th ultimo, advising that the Attorney-General of the Province of Ontario has set up a committee to study the question of offensive literature, particularly magazines, pocket books, comics etc.

In the Province of Manitoba about three years ago there was considerable agitation over the sale and distribution of crime comics and obscene literature. Although no committee was set up this Department took active steps to curtail, as far as possible, the sale and distribution of such material.

As you are aware, submissions have been made from time to time to the Department of Justice relative to the enforcement of Section 150 of the Criminal Code. We also took up with Ottawa the question of the Federal Government setting up a Board of Censors, who would be responsible for censoring on crime comics and obscene books. Ottawa, however, was not prepared to adopt either suggestion.

As you undoubtedly know, there has been a considerable amount of controversy waged across Canada on the steps which should be taken to curtail magazines and books of this nature. One school of thought is that the responsibility should rest with the parents of juveniles. Another school of thought argue that with proper home guidance there should be no necessity of limiting or curtailing the sale of crime comics, etc.

In the Province of Manitoba practically ninety percent of all magazine and pocket books are distributed by two large news agencies. At the time of the controversy this Department contacted both of these organizations.

Both organizations seemed to have an honest and sincere intention to meet the wishes of the Department in restricting the distribution of objectionable material. Each gave their assurance that they would not distribute comic books or obscene books in the province which contravened the provisions of the Criminal Code.

For some time we have been checking the sale of magazines and books in the Province by acquiring or purchasing copies from retail stores. If we find any objectionable publications we immediately notify

the distributors and if they are from one of the two large organizations those organizations immediately withdraw the magazines and books from all stores in the Province.

We have in addition to the large distributors, two or three small distributors who are not so inclined to play ball. Where this has happened we have prosecuted under Section 150 of the Criminal Code and have succeeded in obtaining convictions against the guilty parties.

You are undoubtedly aware of the Comics Magazine Association of America, Inc., whose address is 41 East 42nd Street, New York 17, New York. This is the organization of which Judge Charles F. Murphy is the "Code Administrator". If you have not already obtained a copy of the "Code" which is used as a measuring standard by the Association, a letter to the Association's office in New York will, I am sure, procure a copy for you.

When your committee has made its findings I would greatly appreciate being furnished with a copy of same.

Yours truly,

(signed) Orville M. M. Kay,
Deputy Attorney-General.

T

J.W. MOHR, Ph.D.
Research Consultant
214 Wychwood Avenue
Toronto, Ontario

APPENDIX IV

Residence Tel.: Le.4-0645
Office Tel.: Wa.3-8439

C O P Y

January 27th, 1958.

Deputy Attorney-General,
Provincial Government,
Charlottetown, P.E.I.

Dear Sir:

The Department of the Attorney General of the Province of Ontario has undertaken to study the question of offensive literature like magazines, pocket books, comics, etc. A committee has been set up and I have been appointed as research consultant.

It would be extremely valuable if we could get any information from your department as to your experiences in this matter in regard to

	(pen notations)
(a) public pressure	none
(b) any structure to deal with the problem like a committee, review board, etc.	no
(c) any legal measures taken in your province	no
(d) any statistics, reports, etc.	no

Any other information you could furnish us will be very much appreciated.

Thanking you for your co-operation -

Yours truly,

J. W. Mohr, Ph.D.,
Research Consultant
Advisory Committee
on
Obscene and Indecent Literature.

JWM/IB.

APPENDIX IV

COPY

In your reply
refer to file
C95-11

ATTORNEY GENERAL VICTORIA

Province of
British Columbia

J. W. Mobr, Esq.,
Research Consultant,
214 Wychwood Avenue,
Toronto, Ontario.

Dear Sir:

Your letter of January 27th addressed to Mr. H. Alan MacLean, Q.C., has been referred to the writer for attention.

For your information Mr. MacLean was recently elevated to the Supreme Court Bench. Our present Deputy is Dr. Gilbert Kennedy.

Concerning the question of offensive literature, please be advised that there is no legislation on the provincial books concerning the control of such literature, nor do I know of any committee review board or any such group who pass on such literature.

I have been advised, however, that such groups as P.T.A. and various church organizations voluntarily check into such matters, but they have no official sanction.

With regard to the question of public pressure, that is a matter on which we are unable to comment.

Yours truly,

(signed) N. A. McDermid,
Departmental Solicitor.

nam:hdd.

APPENDIX IV

C O P Y

ATTORNEY GENERAL
Nova Scotia

Halifax, 31st January, 1958.

Mr. J. W. Mohr, Ph.D.,
Research Consultant,
Advisory Committee on Obscene
and Indecent Literature,
214 Wychwood Avenue,
Toronto, Ontario.

Dear Sir:

This will acknowledge your letter of the 27th January with reference to the experience in this province in the question of offensive literature. In reference to your specific questions, I believe the replies can be briefly set out as follows:

(a) From time to time, individuals and groups such as home and school association groups and religious and community associations have made complaint about offensive literature, and have urged that steps be taken to have such literature banned or removed from news stands. There has been no particular complaint in recent months:

(b) We have no committee, review board, or other body established to deal with this particular problem;

(c) We have had only one or two isolated prosecutions of retail dealers. These were instituted by local groups, and were directed toward persons who had proved themselves to be unwilling to co-operate in attempts to resolve the problem;

(d) I know of no available statistics or reports.

Our view on this question generally is that it can be controlled effectively only at the source of the offensive material; that is to say, by action against the publisher, if in Canada, or the importer if the literature is brought in from outside sources. I know of no such literature entering Canada through a port of entry in Nova Scotia, nor is any such literature published by any publishing firm in this Province.

Our experience has been that the individual news vendor is not, and cannot be expected to be, familiar with the contents of all material on his shelves, and that the prosecution of an individual vendor, or indeed mass prosecutions of a number of vendors, would be neither fair nor effective. There are two

Mr. J. W. Mohr, Ph.D. 31/1/58.

principal distribution agencies inthis Province and we have found them to be quite co-operative. On several occasions where we have intimated objection to a particular issue or a magazine or comic sheet, they have withdrawn the issue from circulation.

We have also been unable to establish that there is any arrangement under which individual vendors are required to accept certain items in order to be able to procure others. There is, of course, the general practice of sending out material in job lots, but any individual vendor, so far as we have been able to ascertain, can specify what he wants to receive.

I am afraid that the foregoing is a rather sketchy reply to your letter and, if there are particular questions that you have in mind, I will be glad to try to answer them. The main point I would wish to make, however, is that in our view, effective control can be exercised only at the source.

Yours very truly,

(signed) John A. Y. MacDonald
Deputy Attorney General

JAYM.D

APPENDIX IV

C O P Y

DEPARTMENT OF THE ATTORNEY GENERAL

St. John's, Newfoundland

February 10, 1958.

Dear Sir:

Your letter of January 27, 1958, has been referred to me for reply.

I may say that within the past three years no prosecutions have been entered under Section 150 of the Criminal Code.

As a matter of fact, since the Royal Canadian Mounted Police took over the general policing of this Province, exclusive of the city of St. John's, and up to the end of last year, only two complaints in regard to obscene and indecent literature were dealt with and they did not amount to anything of any consequence.

So far as the city of St. John's is concerned, I am not aware of any prosecutions under Section 150.

Since the beginning of the present year we have received two complaints concerning the distribution of obscene and indecent literature in the Stephenville area and an investigation is now under way. However, I have seen the publications to which objection has been taken and I have some doubt whether a prosecution could be supported.

Frankly, I think I am safe in saying that the problem so far is not too serious here possibly due to the fact that it would appear that one firm in St. John's is the only distributor for the whole of the province and they are apparently co-operating with the police authorities in respect of the types of literature distributed.

I fully appreciate your problem and I have no doubt that Mr. W. B. Common, Q. C., Deputy Attorney General of Ontario has informed you that this matter was one of the matters dealt with at the last meeting in Calgary in September last of the Criminal Law Section of the Conference of Commissioners on Uniformity of Legislation. As a result, recommendations were made and no doubt Mr. Common has informed you of the same.

If we can be of any further assistance, please do not hesitate to write me.

Yours truly,

(signed) Harry P. Carter
Director of Public Prosecutions.

J.W. Mohr, Esq., Phd.,
Research Consultant,
Advisory Committee on Obscene and Indecent Literature,
214 Wychwood Avenue,
Toronto, Ontario.

APPENDIX IV

C O P Y

Department of
THE ATTORNEY GENERAL

The Government of
The Province of New Brunswick

Fredericton, New Brunswick

February 4th, 1958.

Dr. J. W. Mohr,
Research Consultant,
214 Wychwood Avenue,
TORONTO, ONTARIO.

Dear Dr. Mohr:

I have your letter of January 27th and note that you have been appointed a research consultant to the committee that has been appointed to study the question of offensive literature.

Public pressure has been acute from time to time. At the moment, it is quiescent.

No committee or board has been established to deal with the problem. It has been rather thoroughly considered in this Department on several occasions.

No legal measures have been taken in this Province in the way of legislation. We have been unable to devise any satisfactory legislative solution, short of censorship. Aside from any constitutional problems which may be involved in censorship, I do not think the Government would be prepared to accept the principle of censorship of publications.

We do not have any statistics or reports on this situation.

Yours faithfully,

(signed) E. B. McLatchy,
Deputy Attorney General.

EBM:aec

APPENDIX IV

22 B 60

C O P Y

DEPUTY ATTORNEY GENERAL

Alberta

HJW/HS

EDOMONTON, Alberta,
March 13th, 1956.

Dear Mr. Common:

Re - Obscene Literature
Section 150 Criminal Code

With reference to your letter of the 1st instant, I beg to advise that in this Province a Committee was set up to study and investigate the question of crime and other objectionable comics and salacious magazines, and to recommend effective action to prevent their sale and distribution in the Province.

A number of organizations, such as the University Women's Club, Library Associations, Farm Women's Unions, Local Council of Women, Catholic Women's League, etc. were called together with welfare organizations and distributors of magazines in this Province.

At that time it was decided to set up a special Committee which was done under the provisions of an Act called The Cultural Development Act, being chapter 9 of the Statutes of Alberta, 1946.

The Committee has been very active and has held a number of meetings with Home and School Associations and other interested organizations with a view to outlining a program of education to cut down the sale of crime comics and other salacious literature.

The work of the Committee has been twofold:

(1) To prevent the sale and purchase of objectionable literature by educational means, that is, to try and have parents educate their children to enjoy the better forms of literature and to discourage the purchase of crime comics.

(2) To bring to the attention of the distributors in this Province any crime comics or other salacious literature which the Committee considers objectionable.

It has been found that the distributors are willing to co-operate and will take out of circulation magazines and crime comics that are obviously objectionable and if any news

vendor or distributor refuses to take the magazine or crime comic out of circulation, the matter is referred to this Department to consider whether there is evidence to warrant a charge under section 150 of the Criminal Code.

There is in the course of preparation by the Committee a pamphlet dealing with crime comics for circularization in this Province and as soon as this has been published, I would be pleased to send you a copy.

I think that the work of the Committee has proved very effective in this Province and that it has done a great deal to cut down the sale and distribution of objectionable literature.

If there is any further information I can give you in connection with this matter, I would be pleased to provide you with the same.

Yours very truly,

(signed) H. J. Wieson,
Deputy Attorney General.

W.B. Common, Esq.
Director of Public Prosecutions,
Department of Attorney General,
Parliament Buildings,
TORONTO 2, Ontario.

APPENDIX IV

C O P Y

22.B.60

Deputy Attorney General
Alberta

EDMONTON, Alberta.
October 10th, 1957.

Dear Mr. Common:

Re: Obscene Literature
Section 150 - Criminal Code

In response to your letter asking for some information as to the activities of our Provincial Board on Objectionable Publications, I am pleased to enclose a copy of a report and other material submitted by Mrs. Maure, Chairman of the Committee, to the Honourable Mr. Manning in February of this year.

The Board has had two public meetings since February, 1957, one in Medicine Hat and one in Calgary, sponsored by the Home and School Association and the Junior Chamber of Commerce. Members of the Board have met with mayors, civic officials, social welfare workers and law enforcement officials to exchange information and ideas. Mrs. Maure says that at its next meeting the Board will meet with the Provincial Librarian and the Librarian from the Department of Extension to plan a mutual program to publicize good reading. This is to carry out the Board's conviction that there should be a positive, as well as a negative, approach to the problem. Co-operation by magazine distributors in this Province has been excellent.

Mrs. Maure would be pleased to furnish Doctor Johann W. Mohr with any information he might like to have concerning the operation and experience of the Alberta Board.

(Page 2) Mrs. Maure's address is

Mrs. A. J. Maure,
Chairman, Advisory Board on
Objectionable Publications,
9227 - 117th Street,
Edmonton, Alberta.

Kindest personal regards.

Sincerely,

(signed) D. J. Wiesen
Deputy Attorney General.

APPENDIX V

The Periodical Distributors of Canada is an Association of 55 independent wholesale distributors of periodicals and magazines carrying on business in the Dominion of Canada.

The association was founded in April 1942 and through its members is responsible for approximately 75% of the total distribution of periodicals, magazines, newspapers, and pocket sized books, in Canada to more than 10,000 retail book sellers and newsstand proprietors across the Dominion.

2. The wholesale distributors occupies a position between the publisher and the retail book seller and newsstand proprietor. The wholesaler is granted a territorial franchise by the publisher to whom he assumes the responsibility of providing adequate retail distribution of the publishers' periodicals and magazines, and pocket novels. At any given time, the average wholesale distributor carries in his warehouse a minimum of a thousand different titles of magazines, periodicals, and pocket novels which may emanate from hundreds of publishers both Canadian and foreign.

3. It is important to appreciate that the wholesale distributor is not consulted in any way about the editorial or reportorial content of the magazines and periodicals which he distributes. He does not create them; it would be impossible for him to read even a fraction of them, furthermore, he is not culturally qualified to evaluate the nature and quality of their content. He is what his name suggests, that is to say, a distributor. His function is, in effect, that of a sub-circulation department for

APPENDIX V (Cont'd)

the various publishing houses, both domestic and foreign, whose publications he handles.

4. The wholesale distributor does not pick and choose what publications or periodicals he will distribute. He operates on a franchise, buying en bloc from the publishers and distributing whatever is allocated to him. It may be that certain publications, because of their limited appeal are not profitable for him to handle; but if he wishes to distribute profitable items such as national publications, he must take the others as well. The system is akin to that which is known as block-booking in the motion picture industry. In order to enjoy the privileges of distributing what he would like, he must also distribute what he may not like. We would emphatically like to point out that the retailer is not subject to bloc buying as is the distributor. Granted the retail dealer may receive many different titles in one bundle, but any title he does not wish to handle for any reason may be returned for full credit without question.

In addition, a simple letter or phone call to the distributor, and he may cancel delivery of future issues of any title he does not wish to handle, without fear of curtailment of class publications. The distributor does not have this privilege with the publisher.

5. The wholesale distributor did not create this system whereby the distributor buys en bloc. But unsatisfactory though it may be, it is the system which prevails and if the wholesale distributor wishes to continue in business he is obliged to

APPENDIX V (Cont'd)

conform to it.

6. In fairness it should be admitted that the system has the merit of insuring the widest distribution of all periodicals, which would not be the case if the distributor were able to handle only those periodicals which he chose or which were most profitable to him.

7. This situation of the importation of objectionable material is not without adequate remedy. The Canadian Customs authorities, in administering the provisions of the Customs Act and Regulations, can and do prevent many books, periodicals and publications from entering Canada.

8. The Customs Service has had long experience in this connection, and there has never been any suggestion that they have been remiss or lacking in the performance of their duties. The proper place to stop objectionable publications from entering Canada is at the boarder, and the proper persons to conduct such an operation are the trained and qualified personnel of the Customs Service. It should be their responsibility to prevent the entry into this county of all things which may be contrary to the laws of Canada or deleterious to the welfare of Canadians.

9. We humbly submit that once periodicals or publications have passed the Customs authorities, we should have the right to distribute them and the news dealers the right to sell them without further hindrance or liability before the law. If however a novel or magazine is banned by Customs, and is then printed in Canada, it is not the doing of the distributor. We feel that in such cases, the plates also should

APPENDIX V (Cont'd)

be prhobited entry. If the plates are made in Canada, we feel that the printer, who is the source of the material, should be accountable, and not the distributor.

10. We are opposed to censorship, and we are opposed to being placed in the position where each individual wholesale distributor must act as his own censor, as is actually the case today. Such a situation is neither feasible nor practical and would never provide the solution to this problem. We further submit that the Publisher should be held responsible for the contents of magazines, books etc. which are printed in Canada.

11. It is our submission that the Canadian Customs Act as it presently exists, affords an adequate safeguard to any actual or apprehended danger which may arise from the importation and distribution of literature in Canada, if strictly enforced by that department, with the following recommendations:

(a) That all questionable periodicals, magazines and pocket novels, be examined by this department, and authority to, or banning of importation of such material be made by them.

(b) That when such material is banned by them, that the plates also be barred importation into Canada, and strictly enforced.

It is also our submission that the provisions of the Canadian Criminal Code afford an adequate safeguard for those publications printed in Canada, if the legislation be directed to the source of the material, rather than at the distributor and retail dealer. We recommend that if a prosecution is to be launched, it should not be launched against the distributor in any individual community. He is not the source of the material, nor has he knowledge of the contents. Prosecutions should be

APPENDIX V (Cont'd)

launched against the source of the material, which is the Canadian Publisher, the Canadian Printer, or against the Canadian office of the foreign Publisher, all of whom by necessity must know the contents of the material, they publish or print.

12. The Periodical Distributors of Canada wish to make it abundantly clear that they hold no brief for offensive or obscene material nor have they any desire to protect or further the distribution of such material. They are not merely an association of business men who are anxious to preserve their general reputation and the sound economy of their business. They are also members of the various communities of Canada in which they reside and as such they are fully aware of the need to maintain established standards of decency and morality. Through no fault of their own however, they find themselves in a situation where they and their retail dealers are subject to invidious comment and attack.

Ontario. Committee on
Obscene and Indecent
Literature
Report on a study of
obscene and indecent

Ontario. Committee
on Obscene and
Indecent Literature

Report on a study of
obscene and indecent
literature

M. Larson	Dec 1/67
S. Goldenberg	April 14/69
[illegible]	Feb 23/70.